JUSTICE
ACTUALITÉS REPORT

Volume 30 No. / N° 4
FALL •• AUTOMNE 2015

Justice at the Crossroads
La justice à la croisée des chemins
Canadian Criminal Justice Association 35th Congress
35e Congrès de l'Association canadienne de justice pénale
Sept. 30 to/au Oct. 3, 2015 • Delta Regina | Saskatchewan
A grand success!
Un grand succès!

INSIDE
DANS CE NUMÉRO

The Promise Ahead: Using the Past to Guide Reforms of Canada's Criminal Justice System
By Anthony N. Doob & Cheryl M. Webster

Food for Thought: Mealtime and Dining in Ontario Prisons
By Rachelle Larocque, PhD

INTERNATIONAL SECTION
SECTION INTERNATIONALE
Articles by // par
Dr. John Winterdyk,
Mount Royal University (AB)
R.E. Bob Brown,
Independent Criminal Justice Consultant
and /et
Fumiko Akashi,
Professor, UNAFEI

AND MORE! // ET PLUS !

CCJA AWARDS 2015
PRIX ACJP
- IN CENTERFOLD -
- AU CENTRE -

EDITORIAL
By newly inaugurated CCJA president,
HIRSCH GREENBERG

ÉDITORIAL
du nouveau président de l'ACJP
HIRSCH GREENBERG

JUSTICE ACTUALITÉS REPORT

Volume 30 No. / N° 4

The **JUSTICE REPORT** contains information of value to Association readers and the public interested in matters related to the administration of justice in Canada. Opinions expressed in this publication do not necessarily reflect the Association's views, but are included to encourage reflection and action on the criminal justice system throughout Canada. For more information on the activities of the CCJA, please contact: •• L'**ACTUALITÉS-JUSTICE** renferme des renseignements utiles aux lecteurs de l'Association et au public qui s'intéressent aux questions relatives à l'administration de la justice au Canada. Les opinions qui sont exprimées ne reflètent pas nécessairement les vues de l'Association, mais y figurent afin d'encourager à réfléchir et à agir sur la justice pénale dans tout le Canada. Pour obtenir de plus amples renseignements sur les activités de l'Association, veuillez communiquer avec :

CANADIAN CRIMINAL JUSTICE ASSOCIATION
ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

101-320, av. Parkdale Ave., Ottawa,
Ontario, Canada K1Y 4X9

613 725.3715 613 725.3720
ccja-acjp@rogers.com •• www.ccja-acjp.ca

ISSN: 0823-9436

Nancy Wright Editor •• Éditrice
ccjapubsacjp@gmail.com

© 2015 CCJA-ACJP. All Rights Reserved. Tous droits réservés.

4 **EDITORIAL**
By Hirsch Greenberg, CCJA President

5 **ÉDITORIAL**
Par Hirsch Greenberg, Président de l'ACJP

6 **THE PROMISE AHEAD: USING THE PAST TO GUIDE REFORMS OF CANADA'S CRIMINAL JUSTICE SYSTEM**
By Anthony N. Doob and Cheryl Marie Webster,
Résumé français à la page 9

10 **FOOD FOR THOUGHT: MEALTIME AND DINING IN ONTARIO PRISONS**
By Rachelle Larocque, Résumé français à la page 12

INTERNATIONAL SECTION INTERNATIONAL

13 **'BIRD NEST' VIEW OF POLICING IN CHINA**
By Dr. John Winterdyk, Résumé français à la page 15

16 **UNAFEI* A CATALYST FOR LEARNING AND ENHANCING COMMUNITY CORRECTIONS IN JAPAN AND INTERNATIONALLY WITH A FOCUS ON VOLUNTEER PROBATION OFFICERS**
By R.E. Bob Brown and Fumiko Akashi, Résumé français à la page 22

18 **CCJA AWARDS 2015 PRIX DE L'AJCP**

19 **NOTICES // AVIS**

STUDENT SPACE // L'ESPACE ÉTUDIANT

23 **LÉGISLATION À RÉVISER : PROBLÉMATIQUES ET AMBIGUÏTÉS DE LA LOI C-51**
Par Éric Cadieux, English abstract at page 26

27 **THE CHANGING FACE OF CANADA'S PRISONS: CAN WE TALK ABOUT BLACK WOMEN?**
By Andrea Anderson, Résumé français à la page 30

31 **EFFECTS OF LEGALIZED PHYSICIAN-ASSISTED SUICIDE (PAS) IN CANADA**
By Brian Carlisle, Résumé français à la page 33

35 **COMING EVENTS | PROCHAINS ÉVÉNEMENTS**

EDITORIAL

BY HIRSCH GREENBERG, CCJA President

I am pleased to present my first address to the readership of the *Justice Report* as the recently elected 2015-2017 President of the CCJA. I wish to reflect on where justice has gone for the past decade and, more vitally, where opportunities may lie in the future. Before presenting my views, I wish to recognize our immediate past-president, Dr. Verona Singer of the Nova Scotia Criminal Justice Association, for her leadership over the past two years; Dr. Stacey Hannem who recently stepped down as the chair of the Policy Review Committee; and to welcome Howard Bebbington, who has already begun to fulfill this position. I also wish to draw to our readers' attention the Board of Directors, the Policy Review Committee, the Affiliates and the staff of the association for their unwavering commitment to justice.

It has only been a short while since the marathon federal election campaign has ended. There is now an opportunity for the justice community to engage ourselves in an appraisal of the criminal justice liabilities that have amassed over the last nine years; largely under the omnibus Bill-C-10, the *Safe Streets and Communities Act*, of nine separate measures. These measures include: changing the pardon system with 'record suspensions'; mandatory minimums for certain sexual offences and mandatory minimum penalties for certain drug offences; increasing prison sentences for marijuana offences; reducing the ability of judges to sentence certain offenders to electronic monitoring. A particularly contentious aspect of the Act was the proposed enhancement of powers given to government authorities to monitor online communications. While this later aspect of the proposed omnibus was later pulled, it was replaced by the *Security of Canada Information Sharing Act and the Secure Air Travel Act* (Bill C-51); legislation that lives in the shadows of controversy and operational secrecy. "The Conservatives had a bit of a vision, but it was just a sentiment of nastiness," Campbell (retired Director General, Corrections & Criminal Justice at Public Safety Canada) told CBC News (November 2015).

Who, in a civil society would not support being tough on crime – who would support criminal activity - as this standard is somehow the exclusive property of those whose only rejoinder is to increase the penance and suffering of others? Somehow believing, without evidence, and often in contradiction to the evidence, that punishment is somehow transformative: punishing folks into becoming productive, healthy individuals? I have not set out to be critical of any particular political brand but rather those policies that in some measure justify fear as a means to achieve public safety. I believe that the creation of a compassionate criminal justice system that is integral to reform, not the simple entitlement for a pound of flesh, is possible and preferred to most informed Canadians.

I am cautiously heartened by the Ministerial *walking* orders given to Ministers Jody Wilson-Raybould (Justice and Attorney General) and Ralph Goodale (Public Safety): orders for "a major overhaul of Canada's criminal justice system that will put a new focus on restorative justice and hatch a priority plan to regulate and legalize pot." (Kathleen Harris, Alison Crawford, CBC News Posted: Nov 13, 2015). The pot thing seems to be a red herring – a distraction - but there you have it.

At the recent CCJA 35th Congress held in Regina, the theme of the gathering was Justice at the Crossroads: where do we go from here? Communities, technology's influence (e.g., internet child exploitation) victims, and hope, inspired the plenaries and workshops. The stars *may* be aligning where government, NGO's, the justice community at-large can look with compassion toward public safety, not at its expense but by adding value. I encourage all those whose justice identity for Canada is one founded on empathy, raising the voices of the most vulnerable (victims, offenders, their families and communities; missing and murdered Aboriginal women and girls; victims of domestic violence, and so on) to replace fear-based reformatory practices, used for support rather than illumination, with critical evidence-based scientific inquiry.

Let's initiate and support reform that works, that is compassionate, and that is grounded in our Charter of Rights and Freedoms.••

ÉDITORIAL

PAR HIRSCH GREENBERG, Président de l'ACJP

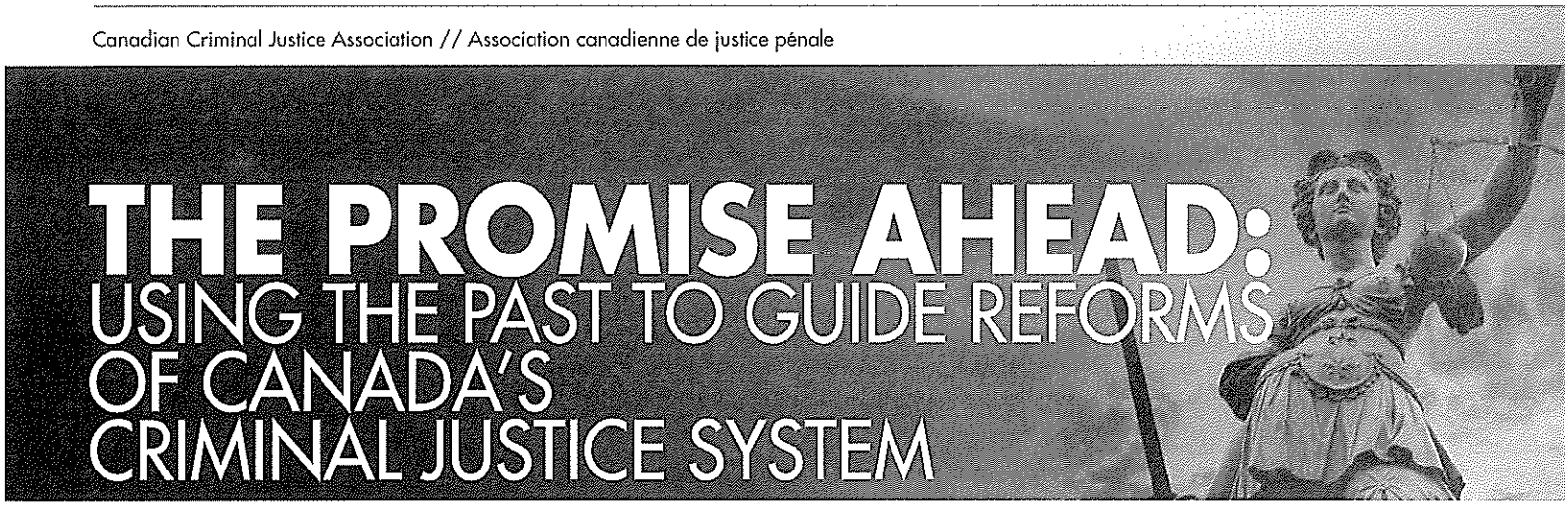
Je suis heureux de m'adresser pour la première fois au lectorat d'*Actualités-Justice* à titre de président nouvellement élu de l'ACJP pour le mandat 2015-2017. J'aimerais réfléchir aux orientations qu'a prises la justice au cours de la dernière décennie et, de façon plus cruciale, aux occasions qui pourraient s'offrir à l'avenir. Avant d'exposer mes vues, j'aimerais reconnaître notre présidente sortante immédiate, Verona Singer, Ph.D., de l'Association de justice pénale de la Nouvelle-Écosse, pour son leadership au cours des deux dernières années; Stacey Hannem, Ph. D., qui vient de quitter son poste de présidente du Comité d'examen des politiques et souhaiter la bienvenue à son successeur, Howard Bebbington, qui a déjà entamé ses fonctions. J'aimerais également que nos lecteurs soient sensibilisés à l'engagement inébranlable de notre conseil d'administration, du Comité d'examen des politiques et du personnel de l'Association envers la justice.

La campagne électorale fédérale marathon vient à peine de prendre fin. Une occasion s'offre maintenant aux intervenants du milieu de la justice de s'impliquer dans l'évaluation des dommages à la justice pénale accumulés au cours des dix dernières années, essentiellement en vertu de neuf dispositions distinctes du projet de loi omnibus C-10, *Loi sur la sécurité des rues et des communautés.* Ces dispositions incluent : le remplacement de la notion de pardon par celle de suspension du casier; l'imposition de peines minimales obligatoires pour certains délits sexuels et pour certaines infractions en matière de stupéfiants; l'augmentation des peines d'emprisonnement pour des infractions liées à la marijuana; les limites à la capacité des juges d'imposer des peines de surveillance obligatoire à certains délinquants. L'un des aspects particulièrement litigieux de cette Loi avait trait à l'augmentation proposée des pouvoirs conférés aux autorités gouvernementales de surveiller les communications en ligne. Bien que cette disposition ait subséquemment été retirée, elle fut remplacée par la *Loi sur la communication d'information ayant trait à la sécurité du Canada* et la *Loi sur la sûreté des déplacements aériens* (projet de loi C-51), une loi caractérisée par la controverse et le secret. « [Traduction] Les conservateurs avaient un petit peu de vision, mais il s'agissait simplement d'un sentiment de méchanceté », affirmait Mary Campbell (ancienne directrice générale retraite, direction générale des affaires correctionnelles et de la justice pénale) à *CBC News* (novembre 2015).

Qui de la société civile s'opposerait à la répression de la criminalité – qui serait favorable à l'activité criminelle –car cette perspective est en quelque sorte devenue la propriété exclusive de ceux dont la seule réplique et d'augmenter les peines et les souffrances imposées aux autres? On en vient à croire sans preuve, et souvent en contradiction des preuves existantes, que le châtiment a une quelconque valeur transformatrice : qu'on peut amener des gens à devenir productifs et en santé en les punissant. Je n'avais pas prévu m'en prendre à une couleur politique donnée, mais plutôt aux politiques qui, dans une certaine mesure, justifient qu'on ait recours à la peur comme moyen de parvenir à la sécurité publique. Je crois que les Canadiens bien informés croient qu'un système de justice pénale compatissant axé sur la réadaptation est réalisable et préférable à une approche vindicative.

Je suis encouragé, quoique prudemment, par les mandats confiés par le premier ministre à Jody Wilson-Raybould (ministre de la Justice et Procureure générale) et Ralph Goodale (ministre de la Sécurité publique), en l'occurrence « de procéder à un remaniement majeur du système de justice pénale canadien en mettant un nouvel accent sur la justice réparatrice et de concevoir un plan prioritaire pour réglementer et légaliser la marijuana » (Kathleen Harris, Alison Crawford, *CBC News,* affiché le 13 novembre 2015). Il semblerait que la question de la marijuana serve à brouiller les pistes, mais voilà!

Le 35e Congrès canadien de justice pénale s'est tenu récemment à Regina sous le thème *La justice à la croisée des chemins*; que faire maintenant? Les collectivités, l'influence des technologies (p. ex., Internet, l'exploitation des enfants), les victimes et l'espoir ont inspiré le contenu des plénières et des ateliers. Il se pourrait que les astres soient en train de s'aligner, que les gouvernements, les ONG et le milieu de la justice dans son ensemble puissent se pencher avec compassion sur la sécurité publique, non pas à ses dépens,mais en y ajoutant de la valeur. J'incite tous ceux et celles qui voient la justice canadienne comme un système fondé sur l'empathie, donnant une voix plus forte aux plus vulnérables (victimes, délinquants, leurs familles et leurs collectivités; femmes et jeunes filles autochtones disparues ou assassinées; victimes de violence conjugale, etc.) à remplacer les réformes basées sur la peur – utilisées comme soutien plutôt que comme éclairage –par des enquêtes scientifiques fondées sur des données factuelles critiques. Entreprenons et soutenons des réformes efficaces, empreintes de compassion et ancrées dans notre *Charte des droits et libertés.*



THE PROMISE AHEAD: USING THE PAST TO GUIDE REFORMS OF CANADA'S CRIMINAL JUSTICE SYSTEM

BY ANTHONY N. DOOB AND CHERYL MARIE WEBSTER

ABOUT THE AUTHORS: Anthony Doob is a professor emeritus at the Centre for Criminology & Sociolegal Studies at the University of Toronto. Cheryl Webster is an Associate Professor in the Department of Criminology at the University of Ottawa.

ABSTRACT

The Harper decade constituted a dramatic break with Canada's criminal justice history. For the 139 years prior to his government, broad political consensus existed about the principles that should govern justice policy. Most notably, Canadian criminal justice policy was – in principle, but not perfectly in practice – pessimistic about the ability of high rates of imprisonment to measurably reduce crime. The challenge for the new Trudeau government is to make changes to the law and its administration that reflect longstanding Canadian values of inclusion, reintegration, compassion, moderation and restraint. Thoughtful changes in this area will not be easy and it is unlikely that everyone will be completely satisfied with every outcome. An open, thoughtful process, however, would constitute a good starting point to creating a criminal justice system that we once again recognize as Canadian.

Come senators, congressmen
Please heed the call
Don't stand in the doorway
Don't block up the hall
For he that gets hurt
Will be he who has stalled
There's a battle outside ragin'
It'll soon shake your windows
And rattle your walls
For the times they are a-changin'
- Bob Dylan (1964)

In the latter part of the 20th century, there would likely have been relatively little discussion about criminal justice policy after a federal election. Whether the Liberals or the Conservatives won would have been important in many policy areas, but probably not so much in criminal justice. But times may be a-changin'. With the most recent election, many Canadians are looking to the Liberals for 'real change' in Canadian criminal justice policy. Ironically, at least part of this change may find its inspiration - and substance - in our past.

Criminal justice policy in Canada may be loosely divided – we would argue – into two distinct periods: the Harper years and the 139 years of Canadian history that preceded them. For the sake of brevity, we would further suggest that the most pronounced and fundamental differences between these two 'eras' are twofold. On the one hand, the Harper decade constituted a dramatic break with the broad consensus on crime and punishment that existed prior to Harper's ascent to power. On the other hand, the Harper government conceptualized and used criminal justice policy for considerably different purposes than previous governments. This article proposes to explore each of these distinctions as well as the directions that they might indicate for new criminal justice reform.

In contrast with other divisive issues in politics, the two principal political parties in Canada have traditionally found themselves in broad agreement regarding crime and punishment. While there may have been disagreement on details, a general consensus existed regarding the principles and purposes of criminal law. Indeed, Canadians largely shared the same set of values on criminal justice matters that have defined us for over a century. A few of the large number of quotations from prominent Liberal and Conservative politicians or their formal policy statements quickly makes the point.

> "The undeniable responsibility of the state to those held in its custody is to see that they are not returned to freedom worse than when they were taken in charge. This responsibility has been officially recognized in Canada for nearly a century but, although recognized, it has not been discharged. The evidence before [us] convinced us that there are very few, if any, prisoners who enter our penitentiaries who do not leave them worse members of society than when they entered them." Royal Commission to Investigate the Penal System of Canada – 1938

> "I want to congratulate the minister for realizing at last that crime is not just a sordid happening but rather a result of

human behaviour brought about by our economic and social conditions which we have failed to change." Conservative Justice critic, Eldon Woolliams, (Alberta), responding to the (Liberal) Solicitor General. House of Commons, 1972

"Imprisonment is generally viewed as of limited use in controlling crime through deterrence, incapacitation and reformation, while being extremely costly in human and dollar terms.... Reducing our dependency on prisons is needed to achieve greater effectiveness, balance, and restraint in our system."Conservative Justice Minister (Kim Campbell) and Conservative Solicitor General (Pierre Cadieux). Preface to government policy statement, 1990

"Crime prevention means recognizing connections between the crime rate and the unemployment rate, between how a child behaves at school and whether that kid has had a hot meal that day. In the final analysis crime prevention has as much to do with [the Minister of] Finance, [the Minister of] Industry, and [the Minister of Human Resources Development, as it does with [the Minister] at the Department of Justice. To some people, crime prevention is code language for going soft on crime. I don't care what they say. I am interested in what works. It is easy to bring a crowd to its feet by demanding harsh retribution for the most brutal of murderers...." Allan Rock, Liberal Justice Minister, 1995

"All available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders." (Criminal Code of Canada, s.718.2 (e) as it was from 1996 until it was amended in important symbolic ways by the Harper government. The amended version, replacing this one, came into effect on 23 July 2015).

Few in Parliament would have disagreed with these statements, regardless of their political stripes or the historical era in which they were given. Canadians had long defended a culture of restraint in the use of prison. This approach to criminal law found its foundations – at least in part - in our historical pessimism that crime could be solved through harsh penalties or through modifications to the criminal justice system. Similarly, our recognition of the social causes of crime discouraged us from looking primarily to imprisonment as an effective solution to crime.

In fact, the principles implied in these quotations were more or less taken for granted, reflecting long-standing Canadian values of inclusion, reintegration, compassion, moderation and restraint. Ironically, when criticism arose, it would often be to underline the need to translate these tenets into concrete initiatives. Symptomatically, when the Government of Canada first released a statement of criminal justice policy – *Criminal Law in Canadian Society* – in 1982 (under Minister of Justice Jean Chrétien's signature, making such statements as "In awarding sentences, preference should be given to the least restrictive alternative adequate and appropriate in the circumstances"), it was criticized harshly by a Globe and Mail columnist because all it contained was 'motherhood' statements. More broadly though, when the Conservative government, in 1990, referred *favourably* to this statement of principles that had been released by the Liberals, nobody thought it to be notable.

Against this backdrop, the most recent decade of criminal justice policy stands out as a clear break with our historical past in crime and punishment. On the surface, little might appear to have changed. Indeed, all recent governments have made modifications to the criminal law. Under the Liberals (1994-2005), we counted 82 government crime bills, 40 of which became law.[1] Those numbers aren't dramatically different from the 94 bills introduced by the Harper government (2006-2015), 44 of which became law. However, one simply needs to scratch the surface of these crime bills to find dramatic differences.

Indeed, the Harper approach to criminal justice goes against almost 150 years of our history. Gone is the small 'l' liberal consensus, being replaced with a completely different normative framework which privileges values of exclusion, ostracism, ambivalence, severity and denunciation. According to the Harper government, crime is the result of rational decision making by immoral individuals who are seen as beyond hope or redemption and, by extension, unworthy of compassion or tolerance. As a consequence, appropriate responses must be harsh enough to deter others and protect law-abiding citizens. As an exclusionary tactic, imprisonment is perceived a particularly effective strategy to ensure public safety.

But criminal justice reform prior to 2006 was also different from recent changes to the criminal law under the Harper government in a second important way. Before Harper's ascent to power, both Liberal and Conservative governments saw their role vis-à-vis criminal justice reform – in broad terms - as predominantly one of creating and promoting coherent, principled and comprehensive criminal law through a process of wide consultation and discussion as well as guidance from subject matter experts. Notably, governments were not afraid to tackle difficult problems, nor lead – rather than follow – public opinion. Further, they sometimes managed to get agreement of all parties even on complex problems.

Youth justice is a case in point. When the Young Offenders Act (YOA) received third reading approval in the House of Commons in 1982, it attracted all party support. On the other hand, when the YOA attracted criticism in the late 1980s, it took the government several years to tackle the problem head-on. In the short term, the Liberals – in both

their 1993 election platform and, to some extent, the legislation that they introduced when they assumed power - looked for quick fixes. In the long run though, the Minister of Justice asked the House of Commons justice committee to look into youth justice matters more broadly. In response, the committee held extensive hearings and issued a detailed report. More broadly, federal, provincial, and territorial governments set up a working group of government officials to investigate youth justice matters. And in the spring of 1998, the Liberal Minister of Justice released a policy paper outlining the need for a completely new youth justice act. After roughly 9 months of broadly based consultation, the Liberals introduced a new bill in March of 1999. But this bill was not even the end of the process. Rather, the bill was extensively debated *and amended* in the House of Commons and in the Senate as a result of legitimate concerns raised in each house. The government, it seemed, was not afraid of ideas. And knowing that the sensible administration of the new Act was crucial to its success, they also invested time and resources in training.

Notably, youth justice law was not the only example of comprehensive, principled legal reform whose legislative process was rooted in broad consultation and discussion as well as concerns with holistic and coherent frameworks. Under the Mulroney Progressive Conservatives, the *Corrections and Conditional Release Act* was made law. Shortly thereafter, the Liberals introduced the sentencing provisions of the Criminal Code as well as the Act that created a new regime for the regulation of firearms (including the now deceased firearms registry). And the next session of Parliament brought us the *Controlled Drugs and Substances Act*. However, this is not to say that all government bills during the 20 years prior to the Harper decade were comprehensive or, for that matter, needed. Illustratively, the decision to restrict the 15-year reviews of parole ineligibility for those convicted of murder (the 'faint hope' clause) was touted as a solution to a problem. However, the problem – serial killer Clifford Olson being eligible for a review – did not actually exist. Indeed, Olson's request for reduced parole ineligibility was turned down in minutes by a jury. Canadians sitting on juries were apparently much more responsible than Parliament was willing to admit.

Clearly, 'politics' has never been completely absent from criminal justice reform in Canada. However, we would argue that in contrast with our past, it became the central focus under the Harper government. Arguably more than any other issue, crime and punishment constituted a political opportunity to garner favour with the Canadian public. As a result, new legislation was considerably more about political pandering than improving criminal law. For example, the Conservative Party of Canada added a new aggravating factor in sentencing in 2012. Specifically, it inserted the following 24 words to the list of aggravating factors:

> "Evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation."

We doubt that there is a single judge who was not already taking the vulnerability of victims into account at sentencing. However, by christening this new legislative proposal as the "Protecting Canada's Seniors Act", the government gave itself an excuse to say that "This legislation would further support our Government's common front to combat elder abuse in all forms.... The interests of law-abiding citizens should always be placed ahead of those of criminals...." The purpose of this legislative amendment was clearly not to improve (or even change) the criminal law. Rather, its purpose was simply to provide the government with a public relations opportunity.

In similar fashion, the Harper government created a largely redundant new offence ('Quanto's Law') of maiming or killing a police or military dog. Its excuse was that a police dog (Quanto) had been stabbed to death by a man running from the police. While clearly a solution in search of a problem, this new law served an important political purpose. Specifically, it gave Harper's publicity people an opportunity to place a picture on the prime minister's website with the caption: "*Prime Minister Stephen Harper, joined by his wife Laureen and Rona Ambrose, Minister of Health, meets Constable Matthew Williamson and a police service dog named Ozzie during his visit to the Edmonton Police Service Canine Unit, where he announced that our Government is bringing forward legislation to honour the daily sacrifices of police officers and their service animals.*" Who could resist voting for someone who, along with his wife and the local Conservative MP (now interim leader of the Conservatives), honours the sacrifices of police officers and police dogs who give their lives to capture bad guys. And, of course, the bill contained a new mandatory minimum (and a consecutive) sentence. As often occurs with political pandering, this legislative proposal was passed with explicit support from the NDP and the Liberals. Honouring Quanto trumped the need for thoughtful criminal law for all parties.

The result has been a decade of criminal justice reform which largely constitutes a hodge-podge of changes whose necessity is often unclear, at best. Rather, much of the new legislation has been redundant, gratuitous and empty – that is, except for its political attractiveness. What it is not, is a genuine attempt to improve the criminal law or tackle difficult social problems. In fact, we would argue that it has contributed to rendering our current criminal justice legislation less principled and more incoherent. Instead of educating the general public about real problems (and their potential solutions), Harper's government chose to follow (if not inflame) public fears and desires for retribution. In brief, the Harper government seemingly used the criminal law for purposes that – at least on the surface – appear to have nothing to do with trying to create more thoughtful and more effective criminal justice legislation.

Within this context, the new Liberal government has a formidable task ahead in attempting to create a more sensible, defensible Criminal Code that is consistent with long standing Canadian values, including those reflected in the Charter of Rights. However, simply 'undoing' the mistakes of the past – including those in which the Liberals participated – would be a waste of an opportunity. Rather, there are several immediate changes that could be made (e.g., allowing exceptions to statutorily imposed minimum sentences). But more generally, there are large areas of the criminal justice system

that could use serious attention. They might include bail, conditional release and the operation of our penitentiaries, among other things.

None of these serious problems can be 'solved' either with 24-word bills or with laws crafted without serious consultation with the various groups (e.g., police, crown attorneys, judges, defence counsel, criminal justice researchers, offenders' and victims' groups, etc.) who have something to contribute. No solution will satisfy everyone. But that's the nature of difficult problems. In fact, Parliamentarians and we - as members of the public - need to be cognizant that when dealing with complex problems, no solution will be completely satisfactory to anyone, let alone everyone.

Twenty years ago, in relation to the Liberal sentencing bill (C-41, 35th Parliament, 1st session), one of Canada's most accomplished criminologists - the late Jean-Paul Brodeur - cited the well-known public intellectuals, Mick Jagger and Keith Richards of the Rolling Stones. Specifically, he noted that when thinking about criminal justice legislation, it is important to remember that "*You can't always get what you want. But if you try sometimes, well, you just might find, you get what you need.*" It would seem that it continues to be good advice for not only those newly charged with the responsibility of improving the criminal law but also those of us who are urging the new government to demonstrate its respect for the criminal law and the criminal justice system. We would argue that in the search for 'real change' to criminal justice policy, the son might find at least part of it by following in his father's footsteps.••

PLEASE SEND ANY REMARKS, OR A COMMENTARY, REGARDING THIS ARTICLE

to *Justice Report* Editor, Nancy Wright

ccjapubsacjp@gmail.com

and keep your eye out for the Notices/Feedback section in future issues!

VEUILLEZ ADRESSER TOUT COMMENTAIRE RELATIF À CET ARTICLE

à l'éditrice de l'*Actualité-Justice*, Nancy Wright :

ccjapubsacjp@gmail.com

Demeurez à l'affût de la section Avis/commentaires dans les numéros à venir.

RÉSUMÉ

THE PROMISE AHEAD: USING THE PAST TO GUIDE REFORMS OF CANADA'S CRIMINAL JUSTICE SYSTEM
Par Anthony N. Doob et Cheryl Marie Webster

La décennie Harper a rompu irrévocablement avec l'histoire de la justice pénale au Canada. Durant les 139 années qui ont précédé son gouvernement, les principes devant s'appliquer aux politiques en matière de justice faisaient l'objet d'un vaste consensus politique. Plus particulièrement, la politique canadienne en matière de justice pénale était — en principe, mais pas nécessairement en pratique — pessimiste quant à la capacité d'un taux d'incarcération élevé pour parvenir à une réduction appréciable de la criminalité. Le nouveau gouvernement Trudeau doit relever le défi d'apporter des modifications à la loi et à son application, qui correspondent aux valeurs canadiennes de longue date que sont l'inclusion, la réinsertion, la compassion, la modération et la retenue. Apporter des changements judicieux dans ce domaine ne sera pas facile et il est peu probable que les résultats fassent l'unanimité. Cependant, un processus ouvert et réfléchi constituerait un bon point de départ pour la création d'un système de justice pénale que nous pourrons à nouveau considérer comme canadien.

FOOD FOR THOUGHT: MEALTIME AND DINING IN ONTARIO PRISONS

BY RACHELLE LAROCQUE, PhD

ABOUT THE AUTHOR: Holding a Bachelor of Arts Honours in Criminology, (Carleton University), Master of Arts in Sociology (University of Alberta) and Doctor of Philosophy – Criminology (University of Cambridge), Rachelle Larocque based this article on her doctoral fieldwork, where she interviewed prisoners at Maplehurst Correctional Complex (Maplehurst), the Ottawa-Carleton Detention Centre (OCDC), the Ontario Correctional Institute (OCI), the Vanier Centre for Women (Vanier), and the Ottawa-Carleton Detention Centre for Women (OCDC-W).

ABSTRACT

Larocque explores the findings of her doctoral research into the impact of canteen services on inmates within a framework of interviews conducted among prisoners at federal correctional facilities in Ontario. The ability to purchase merchandise freely gave some prisoners a sense of status and worth, reports Larocque, and/or made them feel connected in a small way to the outside world. Reminding that food is central to one's sense of self, because mealtime 'outside' is a time of socialization, Larocque notes that the ability to 'feed' oneself also has symbolic value in terms of moral rights and freedoms. In prison, mealtime is reduced to a 'refueling', although nutritive value is low, focused solely on consumption of bland food. As such, over-priced junk food attainable from canteen is a desirable option but, as money must come from family members or friends and cannot include money prisoners earn inside, canteen is not universally accessible. As such, canteen sets the stage for black market activities that inform the prison experience in other ways.

In prison, prisoners can purchase personal and hygienic goods from canteen (a store where goods are sold in prison). For many, the ability to purchase merchandise freely provided status and worth. For others, these commodities allowed them to feel connected in a small way to the outside world since these items were the same as items they had consumed while being 'free'. However, Thomas Ugelvik (2011) argues that 'on one hand, the food can be seen as part of a complex mélange of identity threats experienced by prisoners as attacks on their acquired status as adult males who can eat what they want, when they want it. On the other, food can also be an arena for resistance, aimed at the individual prison, the larger prison system' (48).

> ***One cannot think well, love well, sleep well if one has not dined well.***
> (Virginia Woolf)

In this way, Ugelvik argues that the pains of imprisonment could be partially experienced through food. Prison food, like prison clothing, was controlled and monitored closely by prison officials and administration (Ugelvik, 2011). In the Ontario setting for example, food was cooked through a process known as 'cook-chill', where food was cooked fully, frozen and steamed. All Ontario prisons, including both men and women, were given the same food, cooked in the same manner. Prisoners had no control over food portions, taste or temperature. Meals were always served at the same time each day, in order to reinforce the prison routine. Any prisoners who wanted to supplement their prison diet, and had the currency to do so, could purchase items from canteen. This was standard procedure in prison.

For some prisoners, canteen could be the highlight of the day…

For some prisoners, canteen was the highlight of the day. There's little escape from the mundane routine of prison life, and canteen provided a welcome change or excitement for prisoners. Despite canteen being on the same day every week and thus part of the prison routine, it was during this time that prisoners were transformed albeit for a short time into 'normal' individuals capable of purchasing and consuming their own personal goods. Some prisoners reported that canteen allowed them to purchase items they could not otherwise get in the prison, making them feel a little bit more 'human'. Some prisoners described how receiving canteen was a treat, particularly after spending long periods of time in prison:

> *Canteen is big, some people can't get canteen so they'll give up meals for canteen, you know? That odd chocolate bar and chip you don't get to have, good treat when you've been in here six months (Ryan, OCDC).*

Two-for-ones can lead to assaults and disruptions…

Canteen prices were very expensive and many prisoners were unable to afford to purchase items or refused to pay the exorbitant prices. In some institutions prisoners engaged in a 'two-for-one' (where a prisoner is given a bag of chips purchased by another inmate at the canteen and the next week he will have to return the favor by paying it back with two bags of chips) from the canteen. Reportedly, being able to afford canteen led some prisoners to become 'jail merchants,' whereby prisoners sell other items or merchandise that they receive for free from the prison. As one prisoner explained, jail merchants and two-for-one's can lead to assaults and disruptions of the unit by other prisoners:

Like I get it every second week, so let's say on that week I don't have if I want a bag of chips, I can go to someone they'll give me one bag of chips I gotta give 'em back two. Then if you don't get the money back, or you don't get your canteen the next week, could start a fight ... Get one chocolate bar to give back two, it's not the best deal though 'cause they're $2.50 a bar so, expensive canteen. (Pat, OCDC)

The high price of items on canteen made it difficult for prisoners to obtain canteen commodities. For some, being unable to participate in this prison 'ritual' due to the price of canteen further exacerbated the pains of imprisonment. Perhaps not surprisingly, the high price of items on canteen was one of the most common complaints made by prisoners. One prisoner described the whole thing as follows:

A chocolate bar you... would pay .65 cents for on the street, cost you $2.98, no $2.38 for a chocolate bar where it's only .65 cents at a dollar store the same chocolate bar the same name brand and everything. Why do you think it's so expensive? Because they don't want us to be comfortable... I really believe that... (Jack, Maplehurst)

Many prisoners also commented that most of the food available on canteen was unhealthy and consisted of chocolate bars and chips. One prisoner noted:

There is a canteen yeah but that's only on Tuesdays and then you get the hoarders who eat everything Tuesday night and I don't eat junk food so there's nothing for me in canteen... chocolate bars and candies and it's outrageous prices... (Julie, OCDC-W).

On the outside, most people go to the supermarket, in this way canteen can give a feeling of social connection...

Most prisoners appreciated having the opportunity to purchase merchandise from canteen despite the high prices. However, some prisoners described a time when they were afforded more control, having been permitted to walk into a room and select their canteen. The process of approaching staff for canteen rather than filling out a form allowed prisoners to feel connected to the canteen process and provided some liberty and freedom from the constraints of prison life. On the outside, most people go to the supermarket for groceries or merchandise rather than filling out a form to receive their goods. Thus, the ability to speak to the officers in regards to their canteen allowed prisoners to experience a social connection. One prisoner described the process of canteen from when he was imprisoned in 1986:

It was open concept right ... like if you want something from the store like canteen, want some pop some chips and stuff right, you went to the staff, you signed out some money, they unlocked the door and you walked the tab, right? Now this is Nova Scotia right, then you walk back you put down the receipt, put down the change and you'd see okay you got the proper amount of money. (Bob, OCI)

Availability of canteen and prison hierarchy...

For some prisoners, canteen allowed them to eat food not provided by the prison such as chocolate bars and chips, which offered comfort and allowed them to maintain some sense of self control. Yet, other prisoners described how canteen contributed to the hierarchy of prison since many people cannot afford canteen since they are out of contact with their family or there is no one to deposit money in their canteen account. He explained:

A lot of people don't have canteen, that's another thing ... so it can create a hierarchy level. (Jack, Maplehurst)

Whilst the availability on canteen was generally a positive influence on the lives of prisoners, it nonetheless exacerbated the prisoner hierarchy. Weak prisoners who were unable to afford canteen were placed at the bottom of hierarchy while prisoners who were tough, aggressive and dominant stole or forcefully took canteen items from other people. In some cases, canteen items would be taken without force when a prisoner was absent from his cell. One prisoner described an incident he experienced when some of his food was stolen from him:

You're missing your fucking chocolate cookies but ... who's to say you know the guy's eating the chocolate cookie right in front of you but he could of ordered that off canteen or you know? Could of traded, you know? But chances are it's your fucking cookie... so it's like, I don't try, I do my best to stay away from them (Ryan, OCDC).

Canteen items caused problems between prisoners on some units; however, prisoners were happy to be able to purchase items from the canteen. By purchasing their own items, prisoners exercised some control which was important for their self-worth and sense of self. All prisoners engaged in the consumption of food, and the process of food selection was important since individuals infused food with meaning. The foods we select are based on historical, cultural and familial heritage and culture and provide individuals with a sense of identity and social integration (Visser 1991; Iggers 1996; Tisdale 2000).

Books also available from canteen - expensive and few...

In addition to food and hygienic items being purchased on canteen, prisoners could also purchase books and magazines. However, as with the other items, books were very expensive and few, if any, prisoners were able to afford them. Some prisoners discussed an interest in education but were unable to pay for books and the library system at the prison was unreliable or inaccessible. As with books and food, hygiene products were also expensive and of poor quality.

Every aspect of the prisoner's life was controlled by prison officials. Prisoners were stripped of their sense of identity, sense of self and connection to the outside social world. The prisoner's experience of food, books and hygiene products were simply an extension of the attack on prisoner's identity by removing any trace of control or power from the prisoner by 'denying them status as a person with competence and agency and forcefully removing them from family, friends and positioning them on the margins of the larger community outside' (Ugelvik, 2011: 47). One prisoner voiced his frustration with the inability to access books:

Books, you know, they should be encouraging books ... Encourage people to write home, encourage

people to stay in touch with their families and… to… share… bad experience and… get help where in fact they discourage it. (Jack, Maplehurst)

Being in debt in prison: black market dealings on food from canteen due to inequity and power hierarchies among inmates…

Prisoners relied on family and friends for money to purchase canteen items or were forced to resort to becoming jail merchants or being in debt. Having to become a 'jail merchant' or getting involved in a 'two for one' further exacerbated the already dominating, aggressive and hierarchical culture, thereby divorcing them even further from the general social world. The control of food in prison restricted prisoners' autonomy and was an effective method of disciplinary control (Smith, 2002; Ugelvik, 2011).

As signaled in Ugelvik's (2011) research, prison food was disliked by prisoners and complaints of the portion and taste of food were commonplace. Prisoners often collected packets of peanut butter, salt and pepper in order to render their food more edible at the next meal. Nevertheless, hoarding packets of salt and sugar was not permitted in the prison and when a cell search was performed, all packets were collected. Prisoners were discouraged from collecting peanut butter since it was one of the most popular trading items due to its high quality protein; this was especially prominent among prisoners who engaged in physical activity. Similarly, bananas were also a high trading item for its combination of carbohydrates, potassium and sugar. While prisoners attempted to exercise some control over their food intake by trading and hoarding food, most prisoners were required to eat prison food when it was served to them. I concur with Ugelvik's (2011) observation that the lack of control over food intake 'can be seen as moving the prisoners towards a position as emasculated and child-like' (54). By controlling the type of food prisoners consumed as well as the time allowed and the amount of consumption, 'food works as a metaphor for the control over the prisoner's body, as a sort of link between the experience of being a prisoner and the experience of having an imprisoned body' (Ugelvik, 2011: 54).

Whilst prisoners engaged in various forms of resistance by creating their own juice, hoarding salt packets and trading food items, the prison still exercised control over prisoners. Thus, 'eating the official food, then, is somewhat like eating the entire prison, like making the prison a part of you' (Ugelvik, 2011: 56). Conversely, by throwing food away or exchanging it for another desired item, the prisoner was exercising resistance, strength and was able to maintain some sense of self and dignity. In other words, 'in prison, where control is taken away, as the prisoner and her body become the objects of external forces, food is experienced not only as part of the disciplinary machinery, but also as a powerful source of pleasure, resistance and rebellion' (Smith, 2002: 197; see also Godderis, 2006).

Prisoners were often hungry, lethargic and unable to concentrate…

Morse (1994) notes that food is 'the symbolic medium par excellence' (65). Indeed, in outside society the consumption of food has enormous symbolic value of choices, preferences and dietary habits. In prison, food 'assumes enormous importance, symbolically representing, in many respects, the prison experience' (emphasis in original; Smith, 2002: 202). Prisoners are no longer capable of controlling their food consumption and preferences, choices, eating habits and consumption became arbitrary. The ability to experience novelty, adventure, excitement, and indulgence is important in the construction of the self (Smith, 2002). The lack of self-control was detrimental to prisoners' sense of self and sense of wellbeing. Prisoners were often hungry, lethargic and unable to concentrate. Some prisoners complained of weight gain because they consumed such high calorie snacks such as pop and chips from canteen whenever they were hungry. Canteen was only available once a week to prisoners at a high cost. The only way to purchase canteen items was through canteen money which can be deposited by family members or friends. Prisoners were unable to deposit money in canteen themselves as they were not paid in currency for the work they performed whilst in prison.

Food is central to our sense of self, the experience of consumption is typically a time of the day to indulge and socialize (Lupton, 1996). However, for most prisoners interviewed during my research, mealtime consisted of simply 'refueling' and became a time focused on consumption. In prison, food had a symbolic power; it delineated control and discipline over every aspect of the prisoner's body. The daily meals served as painful reminders of their confinement and the amount of power the institution held over them.••

REFERENCES

Godderis, R. (2006). 'Dining In: The Symbolic Power of Food in Prison'. *The Howard Journal of Criminal Justice*, 45(3): 255-267.

Iggers, J. (1996). *The Garden of Eating: Food, Sex and the Hunger for Meaning*. New York: Basic Books.

Lupton, D. (1996). *Food, the Body and the Self*. London: Sage.

Morse, M., (1994), 'What Do Cyborgs Eat?: Oral Logic In an Information Society', *Discourse*, 16 (3): 86–123.

Smith, C. (2002). 'Punishment and Pleasure: Women, Food and the Imprisoned Body'. *The Sociological Review*, 50(2), 197–214.

Tisdale, S. (2000). *The Best Thing I Ever Tasted: The Secret of Food*. New York: Riverhead Books.

Ugelvik, T. (2011). 'The Hidden Food: Mealtime Resistance and Identity Work in a Norwegian Prison'. *Punishment and Society*, 13(1): 47-63.

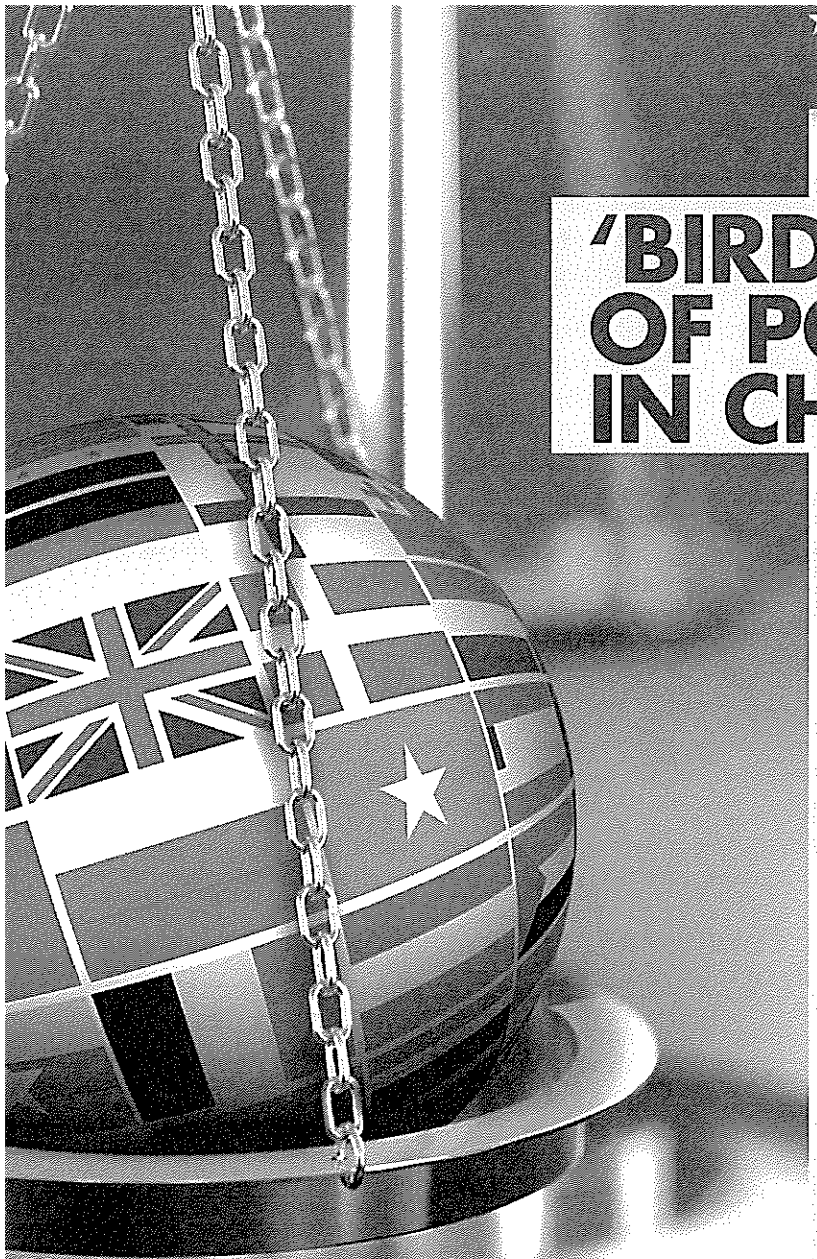
Visser, M. (1991). *The Rituals of Dinner*. Toronto: Harper Collins.

RÉSUMÉ

FOOD FOR THOUGHT: MEALTIME AND DINING IN ONTARIO PRISONS

Par Rachelle Larocque, Ph. D.

Larocque analyse les résultats de ses recherches doctorales portant sur l'incidence des services de cantine sur les détenus dans le cadre d'entrevues menées auprès de prisonniers incarcérés dans les établissements correctionnels fédéraux en Ontario. La possibilité de faire des achats librement a donné un statut et un sentiment de valorisation à certains détenus, rapporte Larocque, et leur a permis d'avoir, dans une certaine mesure, un lien avec le monde extérieur. Elle rappelle que la nourriture est au centre de la perception qu'une personne a d'elle-même parce que les repas pris «à l'extérieur» sont des occasions de socialisation. Elle note que la capacité de se «nourrir» soi-même a aussi une valeur symbolique pour ce qui est des droits moraux et des libertés. En prison, prendre un repas équivaut à un «ravitaillement», même si la valeur nutritive est faible, centré uniquement sur la consommation d'aliments insipides. Par conséquent, les aliments camelote hors de prix vendus à la cantine deviennent un choix intéressant, mais comme l'argent dépensé doit venir des membres de la famille ou des amis et ne peut provenir de l'argent gagné par les détenus en prison, la cantine n'est pas accessible à tous. Donc, les services de cantine ouvrent la voie aux activités du marché noir qui orientent l'expérience carcérale dans d'autres directions.



INTERNATIONAL SECTION

THIS NEW 'INTERNATIONAL SECTION' WILL APPEAR IN THE JUSTICE REPORT AS CONTENT PERMITS.

CETTE NOUVELLE « RUBRIQUE INTERNATIONALE » PARAÎTRA DANS ACTUALITÉS JUSTICE SELON LES ARTICLES REÇUS.

'BIRD NEST' VIEW OF POLICING IN CHINA

DR. JOHN WINTERDYK, Mount Royal University, Calgary, Alberta

ABSTRACT

Criminologist and professor at Alberta's Mount Royal University, Dr. John Winterkdyk discusses his 2014 and 2015 trips to Zhejiang Police College (ZPC), a modestly sized campus he says could be described as a hybrid of the RCMP training depot outside of Regina, SK and the Justice Institute in New Westminster, BC. Winterdyk recalls his 2014 trip as a wonderful three-day whirlwind excursion on invitation by the ZPC (in beautiful Hangzhou just three hours from Shanghai) to participate in a conference, but one that afforded no opportunity to explore the criminal justice system. His return to ZPC in 2015 also featured a busy workshop/presentation agenda, but also visits to a number of sites including a major police station and a relatively new (2009) police central intelligence facility. Winterdyk reports being impressed by, among other, the orderly operations at these sites and the fact that 15-18% of the police force are women. Also impressed by the openness of students, faculty, and senior administrators at the conference and noting they seemed to share a comparable vision, Winterdyk concludes that Chinese policing, like the high-speed trains, is on a trajectory of reform but the turns and twists of how it will express itself are yet to be established.

As part of my academic interest in comparative criminal justice issues, I have been fortunate throughout my career to visit many corners of the world and witness firsthand various elements of the criminal justice system in the respective countries. One of the countries that was on my proverbial 'bucket list' was China. Given its unique history; the controversy that surrounds, at times, various aspects of its criminal justice system and rapidly changing social and political climate, I was honoured and eager to visit the country and hopeful about gaining access to and witnessing its criminal justice system in person.

The Invitation(s) to Zhejiang Police College (ZPC) – 2014 and 2015

In 2014, I was invited to Zhejiang Police College (ZPC) in Hangzhou – about a three-hour drive west of Shanghai, or some 45 minutes with the high-speed train to participate in a conference organized by the school in conjunction with Macau University.

Hangzhou is by Chinese standards a large city with a population of over 8 million people - the 4th largest in China. The magnificent Qiantang River (noted as having the world's largest tidal bore) flows through the city, and the outskirts of the city are peppered with

'large' hills which are home to some of the most prized green tea in China – Longjing tea. The city is a vibrant expression of 'old' China blended with the rapidly invading modernization. The contrasts while vivid are also a stark reminder of the fact that dramatic economic, political, and social changes have been taking place. In addition, the city is home to the famous and spectacular West Lake - which is the pride of the city and its citizens. The lake is surrounded by numerous pagodas, temples, and splendid gardens. In fact, in 2011, UNESCO declared it a World Heritage Site.

My first trip was a whirlwind excursion. I was only in the country for three days. It was a classic fly-in, do your presentations and leave trip. Although treated with the utmost of respect and afforded all the comfort I could ask for, my agenda was packed and there was little time to visit any sites and explore any aspects of their criminal justice system even though requests had been forwarded in advance.

Fortunately, in May 2015 I had the opportunity to return to ZPC for a full week. Again, the workshop/presentation agenda was busy; this time, however, my hosts were extremely generous in helping to arrange a number of site visits including a detention centre and two police centres.

Zhejiang Police College (ZPC)

ZPC is a modestly sized campus that could be described as a hybrid of the RCMP training depot outside of Regina and the Justice Institute in New Westminster, BC. The campus is a 'secured' facility with only one entrance and all guests/visitors must sign in and out when they leave the campus.

Not unlike most post-secondary schools in Canada, the campus has all the amenities one might expect to see - an on-campus grocery store, barber, health centre, everything the students might need to remain fit (e.g., magnificent 50 metre swimming pool, a weight room, a multi-gym complex, as well as an outdoor running track and all the expected equipment to train and condition new police officers.

Dining facilities are quite structured with new recruits eating their meals in a general common area, while officer, teachers, senior administrators, and foreign guests each have dedicated rooms. Each room was also demarcated by a notable difference in what was available to eat.

All the buildings are adorned with signs in Chinese that sometimes offer quaint English descriptors. For example, the international hotel for visiting groups or guests is called the 'Expert building' and the Administration building the 'Logistics Building'.

In so much as the campus is designed for student learning, there are strategically placed gardens and open spaces where students can relax and socialize or simply watch the 'gold' fish swimming about.

What was most striking upon moving about the campus was how impeccably clean it was. Every morning new recruits cleaned the grounds, swept the streets, and collected any fallen leaves, etc. And, in true paramilitary fashion, all students kept their rooms in respectably tidy manner. Movement on the grounds is highly regimented and reflective of the notable level of discipline that oversees the daily operation of the school.

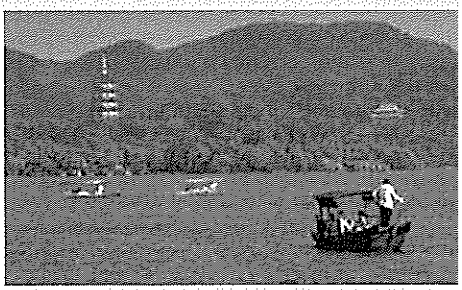
All recruits are carefully screened for their ability, academic and physical, to complete the four-year program. With an attrition rate of less than 5 percent, they would appear to have the process down to an art form.

In a nutshell: Public Security in China

Policing in China has not always been seen by westerners to be representative.... To be honest, I did not know what to expect but, given that I have been fortunate to travel to many different parts of the world and observe criminal justice practices first-hand, I did my best to remain open-minded.

Admittedly, images like Tiananmen Square in 1989, the recent events of student protests in Hong Kong (even though independent from mainland China) may have tainted Western perspectives of how China goes about maintaining and enforcing social control. However, Article 28 of the Chinese Constitution clearly states that the *State maintains public order and suppresses treasonable and other counter-revolutionary activities; it penalizes acts that endanger public security and disrupt the socialist economy and other criminal activities, and punishes and reforms criminals.*

Although it is beyond the scope of this article to enter into an analytical discourse about the implications of the Article, suffice it to say that the Chinese Constitution and in particular Article 28 should be examined objectively within the cultural, historical, political, and social context upon which it is based. Yet, it is nevertheless recognized that some of the criminal justice practices of the past have been subject to (severe) criticism from such organizations as the Human Rights Watch, Amnesty International, and a host of other organizations. Most recently, some of China's neighboring countries such as Vietnam have openly protested the manner in which China has expressed itself on their respective sovereignties.



West Lake with the Leifeng pagoda in the background

The 'Birds nest' view

During my second trip to ZPC I was granted the opportunity to visit a major police station and relatively new (2009) police central intelligence facility.

The first thing I noticed was, all formalities aside, everything is downsized to accommodate precious land space is. I was warmly greeted and given the 'royal tour' of the station. All questions were answered in what impressed me as an open and honest manner. They did not shy away from potentially sensitive questions, and as the visit and tour drew to a close they generously asked if there

was anything else I might like to ask. Aside from not being allowed to take pictures of any of the facilities inside the station, anywhere else was possible.

Overall, I was impressed with the orderliness that characterized the station's operations. I was also impressed that they actively solicit the recruitment of female police officers, who make up about 15-18 percent of the police force and several of those I met were holding senior ranks.

I also noted that during intake of a suspect they afforded the individual all the same rights one would receive in Canada. Of particular note was that the 'interrogation' room was padded to be soundproof in order to ensure the confidentiality between the suspect and his/her lawyer or the investigator. I also noted that all activities were monitored with video surveillance, which was kept for a minimum of 15-30 days.

Furthermore, I learned that virtually every police station included a 'Legal Aid' office manned on a voluntary basis by a lawyer. However, it was interesting to observe (and learn upon inquiry) that a list of all/most lawyers/legal firms was provided on a board that anyone could access to locate and contact a lawyer for possible legal counsel.

My second visit was to the pride of the province's law enforcement. It was the headquarters for central intelligence gathering in the province. Located in D (the Hollywood counterpart in China), it was abundantly clear that this was a city of considerable prosperity. Aside from being exceptionally clean, beautiful wide streets, and modern gleaning structures everywhere, it is also home to the newly opened Chinese Museum of Woodcarving; for which the region is famous.

Again, I was offered a comprehensive tour, allowed to view the operation and ask what might have seemed like an endless battery of questions. The primary purpose of the centre was to monitor the extensive network of CCTV cameras that are located around the city and surrounding community. Aside from using the content to secure and/or follow suspicious activity, it is also used to monitor the possible movement of the new (post 1980) 'floating population' - migrants. It was pointed out that with the rapid changes in the country, the number of people moving from the rural communities into the cities was posing challenges to public safety due to their inability to secure decent paying jobs.

Final thoughts: The train has left the station

For anyone who has followed the exponential changes, arguably the advances in China since the late 1970s, the country represents a profound insight into both the negative and positive effects of a country whose growth may be pushing its limits of adaptability. Yet, I could not help but be impressed with the openness with which the students, faculty, and senior administrators embraced my presentations and their eagerness to learn more. Yet, admirably, while they respectfully listened and asked questions, it was also clear that they share a comparable vision of the direction in which the country needs to move forward. This, however, is arguably a healthy approach - an openness to learn but to use all 'evidence' presented to better inform their policy and direction. However, like the high-speed trains in China, Chinese policing is on a trajectory of reform but the turns and twists of how policing in China will express itself are yet to be established.••

Dean Jin Ching of the Public Security Department with John…

RÉSUMÉ

'BIRD NEST' VIEW OF POLICING IN CHINA

Par John Winterdyk, Ph. D., Université Mount Royal, Calgary, Alberta

John Winterdyk, criminologue et professeur à l'Université Mount Royal, parle de ses visites, en 2014 et en 2105, au Zhejiang Police College (ZPC). Il décrit ce collège aux dimensions modestes comme étant un hybride entre l'École de la GRC (Division Dépôt) située à Régina en Saskatchewan et le Justice Institute situé à New Westminster en Colombie-Britannique. Winterdyk se souvient de son voyage en 2014 comme d'une merveilleuse visite éclair de trois jours sur invitation du ZPC (dans la belle ville de Hangzhou située à trois heures de Shanghai) afin de participer à une conférence où il n'a pas eu la possibilité d'étudier le système de justice pénale. Sa visite au ZPC en 2015 comportait un programme d'ateliers/exposés très chargé, mais aussi la visite d'un certain nombre de sites, y compris un grand poste de police et les installations assez récentes (2009) des services de renseignements de la police. Winterdyk s'est dit impressionné, entre autres, par le bon fonctionnement de ces sites et le fait que les femmes représentent de 15 à 18 % de l'effectif des corps policiers. Il a aussi été impressionné par l'ouverture d'esprit des étudiants, des professeurs et des cadres supérieurs, qui assistaient à la conférence. Winterdyk note que ces personnes semblent partager une vision semblable et conclut que les services de police chinois, tels des trains à grande vitesse, sont sur la trajectoire de la réforme, mais les tours et les détours qui détermineront comment celle-ci se produira n'ont pas encore été établis.

UNAFEI* A CATALYST FOR LEARNING AND ENHANCING COMMUNITY CORRECTIONS IN JAPAN AND INTERNATIONALLY WITH A FOCUS ON VOLUNTEER PROBATION OFFICERS

*** United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders**

BY R.E. BOB BROWN, Independent Criminal Justice Consultant **AND FUMIKO AKASHI**, Professor, UNAFEI

UNAFEI is a United Nations regional institute, established in 1962 by agreement between the United Nations and the Government of Japan, with the aim of promoting the sound development of criminal justice systems and mutual cooperation in Asia and the Pacific Region (UNAFEI).

This Institute based in Tokyo is a member of the United Nations Programme Network of Institutes (PNI). Canadian PNI members include the International Centre for the Prevention of Crime based in Montreal and the International Centre for Criminal Law Reform and Criminal Justice Policy based in Vancouver.

A number of significant contributions have been made by UNAFEI over the last two years that highlight their key role as a catalyst for learning and enhancing community corrections not only in Japan but internationally. Several of these contributions will be provided below. Although the primary focus will be on past successes, information will also be shared about an international event that will take place in Tokyo in 2017.

ABSTRACT

This article discusses the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI), a United Nations regional institute, established in 1962 by agreement between the United Nations and the Government of Japan, with the aim of promoting the sound development of criminal justice systems and mutual cooperation in Asia and the Pacific Region (UNAFEI). Based in Tokyo, this institute is a member of the United Nations Programme Network of Institutes (PNI), as are the following Canadian PNI members from Canada: International Centre for the Prevention of Crime (Montreal) and International Centre for Criminal Law Reform and Criminal Justice Policy (Vancouver). Authors Brown and Akashi discuss a number of significant contributions made by UNAFEI over the last two years and emphasize Japan's invitation to join criminal justice practitioners and academics from around the world at the Third World Congress on Probation in Japan: www.youtube.com/watch?v=TfiL66BIZJs

London - October, 2013 the Confederation of European Probation (CEP)[1]

The inaugural World Congress on Probation entitled "A World of Probation: Perspectives on Community Justice" was held in London in 2013 (Brown 1). The Congress was truly international, with 300 + delegates from 50 + countries in Europe, North and South America, Africa, Asia, Australasia - with a programme of speakers from all continents (Final Report 2). This event was certainly an innovation. It was also, by general consent, a great success and a landmark in the development of probation internationally (Pitts 7).

Reflecting back on a presentation in London entitled "*Civil Participation in Probation in a Japanese Perspective: How the Japanese VPO System Functions for High-Risk Offenders*", by Japanese academic[2] the Japanese Association of Offender Rehabilitation and Wakayama Probation the role of the Volunteer Probation Officer system was highlighted. Although UNAFEI did not present as part of this workshop they did have a high level delegation in attendance, their catalyst role was in evidence and their presence was felt.

With a focus on Volunteer Probation Officers (VPO) and UNAFEI's involvement it would be appropriate to establish their legal framework for VPOs. In accordance with the Japanese *Volunteer Probation Officers Act*, Volunteer Probation Officers must be **(1)** highly evaluated in terms of character and conduct in the community; **(2)** enthusiastic and have sufficient time available to dedicate to their duties; **(3)** financially stable; and, **(4)** healthy and active (Tashiro 19).

Tokyo – January, 2014 - UNAFEI hosts 159th International Senior Seminar on Public Participation in Community Corrections

UNAFEI utilizes a number of strategies to engage with their constituencies in Japan and with their international colleagues. The following highlights 2014 Seminar activities that took place over a four week period from 14 January to 12 February 2015.

Director Terutoshi Yamashita's summary comments on the seminar

In this Seminar, we welcomed 7 Japanese participants and 18 overseas participants: 11 from Asia, 4 from Africa, 2 from South America and 1 from Oceania. The participants included probation officers, correctional officers, judges, prosecutors, law enforcement officers, and

other high-ranking public officials. The Seminar was extremely productive. It consisted of lectures by visiting experts, ad hoc lecturers, and faculty members, individual presentations, visits to relevant criminal justice agencies, and group-workshop and plenary sessions (UNAFEI Director Terutoshi Yamashita, UNAFEI, Newsletter No. 146).

For over 50 years, almost 5,000 participants from 135 countries have participated in UNAFEI's training courses and seminars (Tashiro 20). Volunteers play a significant role in community corrections and more specifically with the membership of the Association of Southeast Asian Nations (ASEAN).

- **Republic of Korea** – Their 13,923 volunteers are called members of the Crime Prevention Volunteer Committee. Established by the Ministry of Justice, the committee operates through 57 local branch organizations, which allows committee members to engage more actively in the community. The members engage in activities of rehabilitation and reintegration of ex-offenders and guiding juvenile delinquents.

- **Philippines** - Community-based rehabilitation of Filipino offenders is handled by the Parole and Probation Administration of the Department of Justice. The Filipino Volunteer Probation Aides (or VPAs) System was introduced in 1978. Currently, there are 13,507 VPAs nationwide.

- **Singapore** – Their 229 VPOs play an important role in rehabilitation by serving as befrienders and as liaisons with schools in order to supervise the academic and social progress of, on average, 2,000 probationers. VPOs are recognized annually at an awards ceremony and a volunteer appreciation event.

- **Thailand** - Their VPO programme was established in 1985 and currently has 13,774 VPOs appointed by the Minister of Justice. The programme utilizes trained community members to assist the Department of Probation with the rehabilitation and supervision of offenders. Outstanding VPOs are publicly recognized with royal decorations and other awards.

- **China** - Community corrections in China began through a pilot project in 2003 and recent legislation has codified the practice. In 2014 over 36,000 social workers and over 632,000 volunteers play key roles in providing education, counselling and rehabilitation to offenders in the community (Tashiro 19).

Circles of Support and Accountability (CoSA) - Canada

These five ASEAN community corrections' jurisdictions honour the significant contributions of their volunteers as highlighted specifically by Singapore and Thailand. In contrast, Irwin Cotler, a former Canadian Minister of Justice under a previous government, was critical of the immediate past Canadian Conservative federal government's decision to no longer fund a Canada-wide volunteer program that helped to prevent sex offenders from re offending after their release from prison. Circles of Support and Accountability (CoSA) is recognized internationally as an effective crime prevention strategy—no more victims. Colter said that the decision to end funding to CoSA projects "doesn't make any sense on the merits" (quoted in Butler par. 9).

On 19 October 2015 a federal election was held in Canada. This resulted with a new majority Liberal government. On 13 November 2015 Mandate Letters were distributed to all Ministers of the new government by the Prime Minister enumerating the results to be achieved. The letter to the Minister of Justice and Attorney General amongst other items highlighted that "an objective of the criminal justice system... should include increased use of restorative justice processes" (Trudeau 2). The letter to the Minister of Public Safety and Emergency Preparedness stipulated results addressing"... gaps in services to Indigenous Peoples and those with mental illness throughout the criminal justice system" (Trudeau 1). Such mandates could benefit from a review of the Japanese and ASEAN models of community engagement and participation and their respective contributions to the many challenges facing criminal justice realities.

Tokyo – July 2014 - UNAFEI co-hosts with the Japan Rehabilitation Aid Association the First Asia Volunteer Probation Officers (VPOs) Meeting

VPO requirements were highlighted above in the Japanese Volunteer Probation Officers Act. As a catalyst for learning and enhancing community corrections UNAFEI played a critical role in shifting from the "hard law" legislative mandate of the Act to the "soft law" of the Tokyo Declaration that will be shared below.

Since there are VPO systems and similar systems in other countries in Asia and around the world, the First Asia Volunteer Probation Officers Meeting was held in Japan in July 2014. In order to further develop community corrections and Volunteer Probation Officer programmes, the 'Tokyo Declaration of the Asia Volunteer Probation Officers Meeting' was adopted. It declares that:

- VPOs should closely cooperate with the government's efforts and collaborate with other organizations

- VPOs should be carefully screened and recruited in accordance with their indi-

CONTINUED ON PAGE 20
SUITE À LA PAGE 20

AWARDS
PRIX D'EXCELLENCE
CCJA • ACJP

Two biennial CCJA Awards were awarded in early October, 2015 at the 35th Canadian Congress on Criminal Justice, which took place at the Delta Regina (Saskatchewan) and was hosted by the Canadian Criminal Justice Association (ccja-acjp.ca) and the Collaborative Centre for Justice and Safety (justiceandsafety.ca).

Au début d'octobre 2015, deux prix de l'ACJP, décernés tous les deux ans, ont été remis lors du 35e Congrès canadien de justice pénale, organisé par l'Association canadienne de justice pénale (ccja-acjp.ca) et le Collaborative Centre for Justice and Safety (justiceandsafety.ca), qui s'est tenu au Delta Regina (Saskatchewan).

PUBLIC EDUCATION AWARD
PRIX D'ÉDUCATION DU PUBLIC

Recipient // Lauréat, Patrick White

National Reporter with the Globe and Mail
Journaliste national au *Globe and Mail*

Patrick White (born in Sechelt, British Columbia, Canada) is a prize-winning Canadian journalist and author. Mr. White graduated from the University of Victoria in 2004 with a BA in history followed by an MA in journalism at Columbia University in 2006. He has worked for *Newsweek*, *The New York Post*, *Toro*, *The Walrus* and currently serves as National Correspondent for *The Globe and Mail* in Toronto, Ontario. In 2004 he published the book *Mountie in Mukluks*, an irreverent look at the work of the Royal Canadian Mounted Police in the Canadian Arctic during the 1930s. In 2007 he received a National Magazine Awards Gold Medal for his feature "Red Rush," published in *The Walrus*. In 2009 White served as an embedded journalist with the Canadian Armed Forces in Kandahar, Afghanistan. In April 2012 he won the 2011 National Newspaper Award for best Long Feature for an anniversary piece on the founding of Nunavut, followed in 2015 by another NNA award for his piece on Canada's overuse of solitary confinement, "Who Killed Eddie Snowshoe?". It is in particular as a result of his research into the death of Mr. Snowshoe, who spent 162 days in segregation, that the Canadian Criminal Justice Association is proud to honour Patrick White with the Public Education Award for 2015.

Patrick White (né à Sechelt en Colombie-Britannique au Canada) est un journaliste et un auteur canadien, lauréat de plusieurs prix. M. White a obtenu un baccalauréat en histoire de l'Université Victoria en 2004, puis une maîtrise en journalisme de l'Université Columbia en 2006. Il a travaillé pour *Newsweek*, le *New York Post*, *Toro*, *The Walrus* et est actuellement correspondant national au *Globe and Mail* à Toronto en Ontario. Il a publié, en 2004, un livre intitulé *Mountie in Mukluks*, un regard irrévérencieux sur le travail de la Gendarmerie royale du Canada dans l'Arctique canadien dans les années 1930. En 2007, il a gagné la médaille d'or des Prix du magazine canadien pour son article *Red Rush* paru dans *The Walrus*. En 2009, White a été journaliste intégré aux Forces canadiennes à Kandahar en Afghanistan. En avril 2012, il a gagné le Concours canadien de journalisme (Catégorie reportage élaboré) pour son article soulignant l'anniversaire de la création du Nunavut, suivi en 2015 d'un autre prix du Concours canadien de journalisme pour son article sur l'usage excessif de l'isolement cellulaire au Canada intitulé Who Killed Eddie Snowshoe? C'est notamment à cause de ses recherches sur la mort de M. Snowshoe, qui a passé 162 jours en isolement, que l'Association canadienne de justice pénale a choisi de remettre à Patrick White son prix d'éducation du public 2015.

CERTIFICATE OF APPRECIATION
CERTIFICAT D'APPRÉCIATION

Recipient // Lauréat, Lorraine Berzins

Smart Justice Network of Canada
Le Réseau pour une justice éclairée au Canada

Smart Justice Network of Canada
For safer communities and effective criminal justice
Search this website
Search
Pour des collectivités plus sûres et une justice pénale efficace
Réseau pour une justice éclairée au Canada

The Smart Justice Network of Canada is a non-partisan network of volunteers from different sectors, walks of life and communities across Canada who are working together to promote responsible, fair, humane, efficient and financially smart ways of responding to criminal and social justice challenges (http://smartjustice.ca/).

NAACJ Executive Director Susan Haines accepted the award behalf of the SJNC.

Le Réseau pour une justice éclairée au Canada (RJEC) est un réseau non partisan de bénévoles émanant de divers secteurs, de différents milieux et de diverses collectivités du Canada, qui collaborent à promouvoir des modalités responsables, justes, humaines, efficaces et financièrement ingénieuses de réagir aux défis soulevés par la justice pénale et sociale.

Susan Haines de l'ANIJC a accepté le Prix au nom du RJEC lors de la cérémonie de remise des prix.

NOTICES // AVIS

Congratulations to CCJA Past-President, Dr. Verona Singer, M.O.M.,
shown here receiving the Order of Merit of the Police Forces at the Investiture Ceremony www.gg.ca/gallery.aspx?id=1135

Félicitations à Verona Singer, Ph. D., OMCP, l'ancienne présidente de l'ACJP,
qui reçoit ici l'Ordre du mérite des corps policiers lors de la cérémonie d'investiture.

PLAN TO ATTEND
CANADIAN
YOUTH & JUSTICE
ADVANCING IDEAS, EVIDENCE AND INNOVAT
to shape a Canadian perspective of youth justice
Who should attend:
• Federal, provincial, territorial & municipal partners
• Researchers & academics • Front line justice professionals
• Call for papers January 2016 • Special student rates
Join us in Toronto on October 25-27, 2017.
For more information visit: www.ccja-acjp.ca or www.cjao.ca
or email: ccja-acjp@rogers.com
or follow us: www.facebook.com/cjaoinfo
CONGRESS 2017 | SHERATON CENTRE, TORONTO | OCT
Presented by the Canadian Criminal Justice Association in partnership with the Ministry of Children and Youth Ser

CCJA AFFILIATES - NEWS
Nova Scotia Criminal Justice Association (NSCJA) Student Award Opportunity
www.nscja.com

2016 NSCJA Student Award Applications

Applications will soon be accepted for the NSCJA Student Award. This award is open to post-secondary students who are enrolled in a social sciences program with a focus on social justice (such as law, criminal justice, social work, sociology, or forensic psychology). Student applicants must be in good standing and enrolled in a school in Nova Scotia. Students must complete a short (250-500 word) typed essay in which they describe how their studies and community involvement directly assist in resolving problems that derive from criminal actions and at risk behaviours. NSCJA Board member Len MacKay presents Cst Conrad with the John Dunlop Award.

A minimum of one (1) $750 - $1000 award will be provided. The award winner will be announced at the NS Criminal Justice Association's Annual General Meeting. The award winner will also receive a one (1) year paid membership to the NS Criminal Justice Association as well as the Canadian Criminal Justice Association. Please visit our website for more information and the application process.

Application Deadline: January 29, 2016

NSCJA - John Dunlop Memorial Award Presented

The John Dunlop Award has been presented by the Nova Scotia Criminal Justice Association and its predecessor associations since 1978. It is possibly the oldest Justice award in Canada. The award is named for John Dunlop, who was a respected member of the Nova Scotia justice system before passing away at a young age in 1977. The award reflects John's dedication to justice and active interest in youth development. Criteria for the award emphasize work above and beyond one's duties in the justice system and involvement in youth-related community activities.

2014/15 Recipient

The recipient of the 2014 award is Halifax Regional Policy Constable Andrew Conrad, a long-standing Community Response Officer for Spryfield/Sambro Loop. Cst Conrad has been involved in numerous initiatives involving youth and other stakeholders in the community, including the Boys and Girls Club, Sports Days and "at-risk" programs. Andrew was an accomplished sprinter in his youth, and he has used this experience to coach and mentor young people for over 20 years. He dedicates much of his free time to coaching and has a Level 3 national coaching certification. Congratulations Andrew!

NOUVELLES DES PARTENAIRES DE L'ACJP
Prix étudiant de l'Association de justice pénale de la Nouvelle-Écosse (NSCJA) www.nscja.com

Candidatures pour le Prix étudiant 2016 de la NSCJA

Les candidatures seront bientôt acceptées pour le Prix étudiant de la NSCJA. Ce prix s'adresse aux étudiants et aux étudiantes de niveau postsecondaire qui sont inscrits dans un programme de sciences sociales axé sur la justice sociale (comme le droit, la justice pénale, le travail social, la sociologie ou la psychologie judiciaire). Les étudiants et les étudiantes qui posent leur candidature doivent être en règle et inscrits dans un établissement d'enseignement de la Nouvelle-Écosse. Ils ou elles doivent présenter un court texte saisi à l'ordinateur (250 à 500 mots) décrivant comment leurs études et leur engagement communautaire aident directement à résoudre les problèmes qui découlent d'actes criminels et de comportements à risque.

Au moins un prix de 750 $ à 1000 $ sera attribué. Le nom du lauréat ou de la lauréate sera annoncé lors de l'assemblée générale annuelle de l'Association de justice pénale de la Nouvelle-Écosse. Le lauréat ou la lauréate verra aussi ses cotisations à l'Association de justice pénale de la Nouvelle-Écosse et à l'Association canadienne de justice pénale payées pour un an. Pour obtenir plus de renseignements sur le prix et le processus de mise en candidature, veuillez consulter notre site Web.

Date limite de présentation des candidatures : le 29 janvier 2016

Remise du Prix commémoratif John Dunlop de la NSCJA

L'Association de justice pénale de la Nouvelle-Écosse et les associations qui l'ont précédée remettent le Prix John Dunlop depuis 1978. Celui-ci est possiblement le plus ancien « Prix de Justice » au Canada. Le prix est nommé en l'honneur de John Dunlop, un représentant respecté du système de justice de la Nouvelle-Écosse, décédé dans la force de l'âge, en 1977. Le prix reflète l'attachement de John à la justice et son vif intérêt pour le développement de la jeunesse. Les critères d'attribution mettent l'accent sur les efforts qui dépassent le cadre normal des fonctions d'une personne dans le système de justice et sur son implication dans des activités communautaires liées à la jeunesse.

Lauréat de 2014-2015

Le lauréat du prix de 2014 est l'agent Andrew Conrad du Service de police régional d'Halifax, un agent d'intervention communautaire chevronné pour le secteur Spryfield/Sambro Loop. L'agent Conrad a participé à de nombreuses initiatives impliquant des jeunes et d'autres intervenants dans la collectivité, y compris le Boys and Girls Club, Sports Day and les programmes « at risk ». Dans sa jeunesse, Andrew était un sprinteur accompli et, depuis plus de 20 ans, il utilise cette expérience pour entraîner et servir de mentor aux jeunes. Il consacre beaucoup de ses temps libres à l'entraînement des jeunes et il détient

vidual aptitude and interests

- Sufficient numbers of VPOs to meet the demands of each country should be ensured
- The relevant authorities supervising VPOs should provide appropriate training, support and advice
- The welfare and safety of the VPOs should also be ensured to allow them to carry out their volunteer duties efficiently and effectively
- Measures should be considered including reducing financial and psychological burdens on VPOs and introducing a compensation scheme for damages incurred when engaged in official duties
- Public recognition of VPOs should be enhanced for the services they render for the well-being of the community
- Government efforts are strongly encouraged to address these issues" (UNAFEI, Newsletter No. 146).

Los Angeles - July 2015 the 2nd World Congress on Community Corrections

The 2nd World Congress was coordinated by the American Probation and Parole Association and the International Community Corrections Association. Along with Canada and the US, the programme included presentations from five European and five Asian countries, including Japan.

At this Congress UNAFEI presented the workshop entitled "Juvenile and Family Justice Innovations in Japanese Community Corrections". The following, prepared by UNAFEI's Professor Fumiko Akashi provides an overview of the three key presentations that were made in support of this workshop. The use of volunteers and community resources will be a common thread.

World Congress on Community Corrections Workshop
Los Angeles July 15, 2015

1. Community-based Treatment in Japan[3]

Under the Offenders Rehabilitation Act (2007), community-based treatment in Japan is administered by the Rehabilitation Bureau of the Ministry of Justice. There are 50 probation offices throughout Japan, which are in charge of probationary/parole supervision and assistance. At the end of 2014, there were 17,480 juvenile probationers, 4,454 juvenile parolees, 5,364 adult parolees, and 10,692 adult probationers.

Japanese community-based treatment utilizes the extensive participation of volunteers, specifically the joint supervision of probationers and parolees by approximately 1,000 probation officers (POs) and approximately 48,000 volunteer probation officers (VPOs). VPOs are private citizens commissioned by the Minister of Justice to support probation officers. This system dates back to the late nineteenth century and the current VPO system was legislated in 1950. The duties of VPOs include supervising offenders in the community, engaging in crime prevention activities and liaising with social resources to assist offenders. Although they are not paid salaries, the government pays all or part of their expenses incurred. VPOs interview probationers and parolees two or three times a month at their own homes or the offenders' homes and they listen attentively to offenders, help them find jobs, meet with their families and offer advice.

Three main advantages of the VPO system are **(i)** local character, **(ii)** personal interaction with offenders and **(iii)** continuity of activities. Since VPOs are rooted in the community, they can help offenders make use of social resources such as employment opportunities and local activities. VPOs demonstrate genuine concern about the welfare of the offenders and regard those they supervise not as offenders but as individuals, encouraging the rehabilitation of offenders with patience and trust. This relationship encourages the offenders to regain their self-respect and identity as law-abiding citizens. Even after the expiration of the supervision period, private relationships may continue as citizens living in the same community. Thus, Japanese VPOs greatly contribute to desistance.

At the same time, the VPO system faces challenges including the increase of complicated and diversified needs of offenders, weaker bonds within families and local communities, the declining number or VPOs and the difficulty in finding appropriate community resources for probationers. These challenges have led to initiatives such as the establishment of Offenders Rehabilitation Support Centers. Also, the Ministry of Justice implements various programmes to provide job opportunities, housing and social welfare services for parolees and probationers in cooperation with the public and private sectors. In order to promote offender rehabilitation and reintegration, it is critical to increase cooperation within the criminal justice system and with related agencies and ministries, private organizations and community citizens.

2. Family Support for Juveniles in Japanese Probation[4]

With a declining youth population in Japan, the overall rate of juvenile delinquency has been declining. On the other hand, family violence, which often refers to youth violence targeting parents, has been increasing. It spiked in 2000, counting more than 1,000 cases since then, and it reached more than 1,800 in 2013. Statistics show that among juvenile probationers, 44.4% live with both parents while among those in juvenile training schools, 36.4% of them live with both parents. As the youth's delinquency worsens, vulnerability of the family increases, along with a number of risk factors.

As in Western countries, Japan employs the evidence-based "systems approach" such as Multi systemic Therapy and Functional Family Therapy for delinquent youth. This approach is being practiced through public-private collaboration between POs and VPOs.

In cases that need more professional skills and knowledge of family therapy, probation officers are expected to take a different approach aiming at restructuring dysfunctional family systems. Professor Shojima has been employing a systems approach and family therapy techniques since the 1980s when

he was a probation officer. It takes considerable time to work on personality issues of delinquent adolescents, while systematic interventions aiming at school or society are far more complicated. On the other hand, working with families as a primary intervention is more cost-effective compared to dealing with larger systems such as schools or communities.

Based on the Professor's experience, he proposes a joint family interview model, in which families are encouraged to face their conflicts and communicate with each other constructively. Challenging family members to communicate with each other constructively is one of the most effective ways for parents to learn to acknowledge their children's own views, while children are expected to learn how to ask for help, rather than getting into drugs, alcohol, gambling or joining gangs.

Family support is not about changing the family system. Studies of delinquent youth who got back on their feet show that their encounters with people such as teachers, friends or lovers are game-changers in their lives. Enough time for young people to explore their opportunities to grow needs to be provided.

3. Addressing Desistance Needs of Young Offenders in Japan[5]

Despite the low crime rate for juveniles, repeat juvenile offenders commit a considerable amount of crime. Most repeat offenders lack family support for their personal development and education, decreasing their socioeconomic status.

The correlation between child poverty and hardship in later life has been proven by many empirical studies. Deprived young people are apt to attribute their difficulties not to social injustice but to their own irresponsibility. Moreover they tend not to access social resources, especially government-sponsored vocational training programmes. Thus, deprived young people are socially excluded.

The Ministry of Justice conducted research on the life situation of repeated young offenders and their recidivism risk, finding that recidivists up to 25 years of age who were sent to prison tend to lack academic success, are unemployed, and grow up with poor family relationships and unstable housing. It was also found that the longer the offender's criminal career, the more easily the offender gives up solving problems. This attitude is recognized as a risk factor of recidivism.

The difficulties of young offenders correspond to those of deprived young people. Family and education are correlated with stability of employment and a stable life. Consequently, young offenders need the following support as well as intervention to develop pro social behaviour:

- Stable and decent accommodation;
- Support for basic learning skills and knowledge;
- Support for vocational training and employment assistance making use of community resources;
- Stable emotional relationships with socially mature persons; and
- Support to enhance self-confidence and problem-solving skills.

In order to facilitate reintegration of young offenders into the community, community corrections schemes must answer the needs of young offenders. Japanese probation seeks to make the most of community resources.

Lifeline® - Canada

From the three presentations above it is clear that in Japan, community resources, community involvement, community engagement and community volunteers are key to their strategy to support offenders while at the same time making significant contributions to community safety. Considering this observation in concert with the interventions shared above "stable emotional relationships with socially mature persons and support to enhance self-confidence and problem-solving skills" it remains disappointing that the Canadian community-based program LifeLine® developed to assist life sentenced prisoners make a successful return to the community on parole was defunded by the immediate past Canadian Conservative federal government. Again, with reference to the recently released Mandate Letters from the Prime Minister of Canada, it is sincerely hoped that upon review of the merits of this program serious consideration will be given to once again funding this supportive initiative.

LifeLine® was started in 1991 by the St. Leonard's Society in a collaborative approach with the Parole Board of Canada and the Correctional Service of Canada. In 2010 approximately 2,280 inmates, including 18 females serving life sentences received LifeLine® services across the county. It has been recognized with awards from the International Corrections and Prisons Association, the American Correctional Association, and has received the Canadian Criminal Justice Association's (CCJA) Achievement Award (Haagen par. 3, 12, 13).

While attending the October 2015 17th Annual International Corrections and Prisons Association Conference in Melbourne, Australia the two authors discussed the merits of the LifeLine® program. It was shared that UNAFEI are very interested in this Canadian Program. Such interest indicates that the role of catalyst is implemented via a mutual learning model. UNAFEI share knowledge and are very open to learning from others. Steps have been taken with the assistance of CCJA Board Member John Braithwaite, LifeLine® co-founder along with Skip Graham, St. Leonard's Society to share relevant information with our UNAFEI colleagues.

International Community Corrections Meetings, Seminars and Congresses Have the Potential to Produce a Synergy

Steve Pitts, Senior Manager Justice Development, National Offender Management Service in London shared the following in relation to the 2013 inaugural World Congress on Probation. "A Congress has the potential to produce a synergy and insights that are hard to replicate through other means. Not with standing the many obvious differences between jurisdictions including legislation, structure, culture and resources, the twin themes of effectiveness and community appear meaningful across borders. This resonance reinforces a sense of optimism, tangible at Congress, regarding the potential to develop a common language for conversation in support of effectiveness and value for money at a time of austerity" (Pitts 8). Although hard, such a synergy was also applicable to the 2014 UNAFEI Tokyo Meeting and Seminar activities referenced above and to the 2015 Los

Angeles World Congress on Community Corrections. All of these events were enhanced by the involvement of the international criminal justice community. At home while hosting international colleagues or away from home in the international community UNAFEI, as a catalyst, routinely makes a significant contribution to learning and enhancing community corrections policies and practices.••

Focus on 2017

Consistent with the above, Japan cordially invites their Canadian colleagues and members of the Canadian Criminal Justice Association to attend the Third World Congress on Probation and look forward to welcoming along with their Canadian friends, criminal justice practitioners and academics from all over the world. At the Second World Congress held in Los Angeles, USA (July 2015), it was announced that Japan will host the 2017 World Congress, and a video containing an invitation from Ms. Yoko Kamikawa, Minister of Justice, as well as a brief introduction of Japan's rehabilitation services is available online at:
www.youtube.com watch?v=TfiL66BIZJs

FOOTNOTES

[1] Since the establishment of CEP in 1981, the letters CEP stood for 'Conférence Permanente Européenne de la Probation'. At the General Assembly that took place October 8th 2013, as part of the World Congress on Probation, the initials CEP were amended to reflect: Confederation of European Probation and referenced as above.

[2] – Professor Hiroshi Shojima, Fukushima University, Professor Kayo Draft 21 – 29 August 2013 Konagai, Rikkyo University, AyokoSakonji, Deputy Chief Probation Officer, Wakayama, Japan.

[3] Presenters - Naoki Tanaka, Rehabilitation Bureau, Ministry of Justice & Professor Fumiko Akashi, UNAFEI.

[4] Presenter - Professor Hiroshi Shojima, Fukushima University, Japan.

[5] Presenter - Professor Kayo Konagai, Rikkyo University).

WORKS CITED

Brown, R.E. Bob. "Reflections on October 2103: Two Congresses, Two Continents, Two Cities – Vancouver and London." *American Probation and Parole Association Perspectives, Resources Publications – Perspectives* Vol 37 No 4 (Fall 2013): 38 – 41. Web. 23 Sept. 2015.

Butler, Don. "Government cut sex offender program for political reasons, Irwin Cotler says." *Ottawa Citizen*. Postmedia Network Inc., 21 June 2015. Web. 23 Aug. 2015.

"Final Report World Congress on Probation," *Working in Judicial Framework - werken in justitieel kader*. N.p. n.d. Web 24 Sept. 2105.

Haagan, Ragner. "Federal government cuts prison program" *CJME News*. News Talk 980 CJME 2015. 19 Apr. 2012. Web 23 Sept. 2015.

Pitts, Steve. "Probation: A Global Conversation." *Civic Research Institute, International Community Corrections Association, Journal of Community Corrections* Vol XXIV No 2 (Winter 2015): 7 – 17. Web. 23 Sept. 2015.

Tashiro, Akiko. "Report of the Asia Volunteer Probation Officers Meeting." *National Association of Probation Executives Official Publication - Executive Exchange* (Fall 2014): 18 – 20. Web 23 Sept. 2015.

Trudeau, Justin (1). "*Minister of Public Safety and Emergency Preparedness Mandate Letter.*" Prime Minister of Canada Justin Trudeau. n.d. Web 14 Nov. 2015.

Trudeau, Justin (2). "*Minister of Justice and Attorney General of Canada Mandate Letter.*" Prime Minister of Canada Justin Trudeau. n.d. Web 14 Nov. 2015.

UNAFEI For a Peaceful and Prosperous World. N.p. n.d. Web. 10 Nov. 2015

United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI). "Public Participation in Community Corrections." *UNAFEI Newsletter* No 146 (Feb. 2015): 3 - 5. Web. 23 Sept. 2015.

A World of Probation - Perspectives on Community Justice October, 2013). Program Draft 21-29 August 2013. Retrieved September, 2015 at http://www.cep-probation.org/uploaded_files/Draft-WCP-Prog-v21.pdf

Yamashita, Terutoshi. "Letter from the Director." *United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) – Newsletter* No 146 (Feb. 2015). Retrieved Sept. 23, 2015 at http://www.unafei.or.jp/english/pdf/PDFNewsletters/146.pdf

http://www.unafei.or.jp/english/pdf/seminar/159E.pdf - The 159th International Senior Seminar "Public Participation in Community Corrections"

Japan looks forward to meeting you in 2017!

Prof. Kayo Konagai of the Japanese Association of Offenders Rehabilitation (1st from left); Ms. Fumiko Akashi of UNAFEI (2nd from left); Mr. Satoshi Minoura of UNAFEI (3rd from left); Mr. Shoji Imafuku of the Rehabilitation Bureau, Ministry of Justice of Japan (4th from left); Prof. Tetsuya Fujimoto of the Japan Rehabilitation Aid Association (5th from left); Mr. Willem van der Brugge, Secretary General of the Confederation of European Probation (6th from left); Ms. Akiko Tashiro of the Rehabilitation Bureau, Ministry of Justice of Japan (7th from left) and Japanese delegates at the Second World Congress in Los Angeles.

RÉSUMÉ

UNAFEI A CATALYST FOR LEARNING AND ENHANCING COMMUNITY CORRECTIONS IN JAPAN & INTERNATIONALLY WITH A FOCUS ON VOLUNTEER PROBATION OFFICERS

Par R.E. Bob Brown, consultant indépendant en matière de justice pénale et Fumiko Akashi, professeure, UNAFEI

Cet article porte sur l'Institut des Nations Unies pour la prévention du crime et le traitement des délinquants en Asie et en Extrême-Orient (UNAFEI); un institut régional des Nations Unies créé en 1962 par une entente conclue entre les Nations Unies et le gouvernement du Japon dans le but de promouvoir le développement viable des systèmes de justice pénale et la coopération mutuelle dans la région Asie-Pacifique (UNAFEI). Cet institut, basé à Tokyo, est affilié au Réseau des Instituts de la Commission des Nations Unies sur la prévention de la criminalité et la justice pénale (PNI), tout comme le sont les membres canadiens suivants : le Centre international pour la prévention de la criminalité (Montréal) et le Centre international pour la réforme du droit criminel et la politique en matière de justice pénale (Vancouver). Les auteurs Brown et Akashi parlent de certaines contributions importantes faites par l'UNAFEI depuis deux ans et mettent l'accent sur l'invitation du Japon à se joindre aux praticiens de la justice pénale et aux universitaires du mon entier qui participeront au Troisième congrès mondial sur la probation, dont il sera l'hôte. www.youtube.com/watch?v=TfiL66BIZJs

LÉGISLATION À RÉVISER : PROBLÉMATIQUES ET AMBIGUÏTÉS DE LA LOI C-51

PAR ÉRIC CADIEUX, Étudiant au Baccalauréat en Criminologie, Université d'Ottawa

RÉSUMÉ En prenant compte des diverses connaissances développées notamment dans le milieu criminologique, Éric Cadieux tente de définir trois problématiques de la loi antiterroriste de 2015, aussi connue sous C-51 qui devraient être abordées de manière prioritaire par le gouvernement soient, le manque de reddition de compte adéquat, les mandats spéciaux permettant au SCRS d'enfreindre la Charte canadienne des droits et libertés, et le manque d'encadrement législatif pour les nouveaux pouvoirs accordés aux forces de l'ordre. De plus, cet article portera un regard sur certains éléments de la loi C-51 qui remettent en question le besoin de la loi C-51.

En 2014, le Canada a été directement touché par la violence inspirée du terrorisme islamique international. Les attaques en sol canadien du 20 et 22 octobre 2014 semblent avoir apporté l'inquiétude mondiale du « mouvement djihadiste » en territoire canadien. Le message retenu chez la population est que dorénavant, le Canada n'est plus à l'abri du terrorisme. Face à cette situation, le gouvernement a répondu avec la loi antiterroriste de 2015, aussi connue sous C-51.

La loi antiterroriste de 2015 (C-51) a été mise en place le 18 juin 2015, mais après seulement deux mois, l'avenir de la loi est devenu incertain avec le début de la campagne électorale. Abroger la loi, y apporter des amendements, ou durcir la loi ont été les positions présentées. Le nouveau gouvernement libéral avait promis d'apporter des amendements à la loi C-51 pour éliminer ses éléments problématiques. Le gouvernement semble suivre ses promesses pour l'instant, puisque la loi C-51 figure sur la lettre de mandat du ministre de la Sécurité publique et de la Protection civile, ainsi que le ministre de la Justice.

En prenant compte des diverses connaissances développées notamment dans le milieu criminologique, cet article tentera de définir trois problématiques de la loi C-51 qui devraient être abordées de manière prioritaire par le gouvernement, soient, le manque de reddition de comptes adéquats, les mandats spéciaux permettant au *Service canadien du renseignement de sécurité* (SCRS) d'enfreindre la Charte canadienne des droits et libertés, et le manque d'encadrement législatif pour les nouveaux pouvoirs accordés aux forces de l'ordre. De plus, cet article portera un regard sur certains éléments de cette loi qui remettent en question le besoin de la loi C-51.

Le contexte de la controverse

Le débat entourant la loi C-51 a fait surface suite aux attentats du 11 septembre 2001, où ces événements ont eu un impact très important sur les normes de sécurité à l'échelle internationale. Un des apprentissages à faire suite aux attentats de 2001, est que dans un climat de peur, les gens sont prêts à renoncer à une plus grande part de leurs droits et libertés au nom de la sécurité[1]. Le débat sur ce qui représente le meilleur équilibre entre les libertés et la sécurité ne cesse d'être étudié depuis, et à ce jour, aucune réponse définitive n'a émergé. Bien que les savoirs théoriques développés à ce niveau se contredisent énormément, il est possible pour le pouvoir législatif canadien de tirer un apprentissage des multiples points de vue développés par les chercheurs.

Suite aux divers attentats ayant touché les pays occidentaux, les législations antiterroristes ne cessent d'apparaître malgré les inquiétudes concernant les risques que ces politiques représentent pour la vie privée et les droits humains. En fait, on peut remarquer que les législations plus « sévères » en matière de terrorisme ont tendance à émerger suite à des attentats de grande envergure, lorsque la population est moins susceptible de s'opposer à des lois plus envahissantes pour la vie privée[2]. Il n'est donc pas surprenant que le gouvernement canadien ait réagi avec une telle législation pour lutter contre le terrorisme suite aux attentats d'octobre 2014. Et est-ce une coïncidence que le controversé projet de loi C-51 ait été annoncé quelques semaines après un attentat meurtrier en France dans les locaux du magazine Charlie Hebdo? Selon cette perspective, il ne serait pas étonnant de voir des nouvelles mesures antiterroristes émerger un peu partout dans le monde suite aux récents attentats du 13 novembre à Paris.

Bref, la controverse de la loi C-51 s'est orientée sur certains articles de la loi qui touchent à l'intégrité de la Charte cana-

dienne des droits et libertés. Juges, avocats, anciens premiers ministres, Commissariat à la protection de la vie privée du Canada, et professeurs d'université ont identifié des failles dans la loi. Le nouveau gouvernement devrait donc apporter des changements aux éléments les plus problématiques de la loi C-51 pour rectifier la situation et répondre aux inquiétudes qui ont été soulevées. Voici trois éléments problématiques qui devraient être révisés par le gouvernement.

Amendements prioritaires

Il est important de prendre en compte les articles scientifiques qui se sont penchés sur divers aspects de la question du terrorisme pour bien comprendre ce qui est en jeu. Il faut également se rappeler de ne pas tomber dans une réflexion biaisée par la peur que tentent de nous imposer les terroristes. Les divers écrits dans le domaine permettent d'identifier trois éléments problématiques qui devraient être priorisés par le nouveau gouvernement si celui-ci souhaite rectifier ou du moins, améliorer les problèmes de la loi C-51.

Le premier problème de la loi C-51 est que l'ajout des pouvoirs au SCRS n'a pas été accompagné d'un ajout aux pouvoirs du *Comité de surveillance des activités de renseignement de sécurité* (CSAR). Plusieurs chercheurs avaient affirmé que les mécanismes de surveillance du SCRS n'étaient pas adéquats bien avant la loi C-51, et avec les nouvelles mesures prévues par la loi C-51, il n'y a plus de doute que les mécanismes de redditions des comptes doivent être révisés[3]. Il est important de noter que le mandat élargi du SCRS lui permettant d'aller au-delà du renseignement et de passer à l'action, ajoute une dimension au service de renseignement qui n'est pas prise en compte dans les mécanismes de reddition des comptes actuels. Cette nouvelle capacité d'action, accompagnée des nouveaux mandats spéciaux permettant au SCRS d'agir sans prendre en compte les garanties de la Charte canadienne des droits et libertés, représente un pouvoir allant beaucoup plus loin que le *simple* renseignement. Rendre des comptes devient donc un enjeu beaucoup plus important. Le nouveau gouvernement semble déjà avoir identifié cette faille dans la loi C-51, et il sera intéressant de voir quelles seront les mesures concrètes mises en place pour répondre au problème.

Le second problème à considérer est le changement que la loi peut apporter à une des dynamiques de la justice pénale. En effet, la loi C-51 modifie l'article 12 de la *Loi sur le service canadien du renseignement de sécurité*, permettant l'obtention d'un mandat spécial autorisant le SCRS à prendre des mesures qui portent atteinte à un droit ou à une liberté garantie par la *Charte canadienne des droits et liberté*[4]. Cela signifie un important changement d'un des rôles importants du système de justice pénale. Deux professeurs en droit se spécialisant dans le domaine du terrorisme et de la sécurité nationale, Craig Forcese et Kent Roach, expliquent bien ce changement de rôle: «In the world of search and seizure, judicial warrants are designed to *prevent*—not authorize— Charter violations. That is because the Charter privacy protection is qualified – the Charter protects against "unreasonable" searches and seizures»[5]. La loi C-51 suscite donc un inversement du rôle des juges en ce qui concerne l'autorisation des mandats: leur donner le rôle d'autoriser le SCRS à ne pas tenir compte de la Charte semble plutôt contre-intuitif. Il reste à voir si les juges vont accepter d'accorder de tels mandats, cependant, puisque ces mandats sont accordés en secret, il est impossible de savoir si cette mesure est réellement utilisée pour l'instant. Cela en inquiète plusieurs puisque cette mesure sacrifie les garanties de la Charte «s'il existe des motifs raisonnables de croire qu'une activité donnée constitue une menace envers la sécurité du Canada»[6]. Il serait donc intéressant que le nouveau gouvernement considère d'abroger cette mesure, de la modifier, ou d'au moins, s'assurer qu'un mécanisme d'imputabilité adéquat encadre cette modalité de la loi C-51.

Le troisième problème est le manque d'encadrement législatif des nouveaux pouvoirs accordés aux forces de l'ordre. Notamment, la loi assouplit les conditions pour des arrestations sans mandat dans le cas d'actes terroristes. Il peut y avoir arrestation s'il y a des «motifs raisonnables de soupçonner que la mise en garde la personne aura vraisemblablement pour effet de l'empêcher de se livrer à une activité terroriste»[7]. Il est possible de voir que certaines mesures prévues par la loi C-51 sont très générales et laissent place aux interprétations subjectives. En plus, ce niveau d'ambiguïté se trouve à plusieurs endroits dans le texte législatif. Sans limites claires, la loi peut avoir une portée bien plus grande que l'objectif «antiterroriste» présenté.

Ces diverses failles retrouvées dans la loi C-51 ont le potentiel d'être corrigées et abordées par le gouvernement à l'aide de divers amendements. Cela dit, il existe d'autres éléments présents dans la loi qui continuent de remettre en question les bienfaits de la loi C-51.

Le besoin de la loi C-51 :

Lorsqu'on prend en compte les failles identifiées dans la loi C-51, on peut se demander si elle est véritablement nécessaire.

La loi antiterroriste de 2015 a été adoptée dans une optique de lutte contre le terrorisme, avec comme but de prévenir les attaques sur notre territoire[8]. Or, plusieurs chercheurs sont d'avis que nous surestimons les capacités des terroristes. En effet, un criminologue ayant fait carrière à l'Université de Montréal, Jean-Paul Brodeur, a affirmé que «l'idée que le Canada peut *prévenir* les attaques terroristes est farfelue»[9]. Selon son point de vue, les attentats terroristes organisés et supportés par du financement international sont si rares, qu'il est impossible d'établir des tendances observables, ce qui rend leurs prévisions difficiles. Bien sûr, certains complots terroristes ont été découverts et arrêtés, comme les Toronto 18 et Saïd Namouh, mais le point en commun de ces terroristes reste qu'ils ont tous fait preuve d'une incompétence et d'un amateurisme apparent[10]. D'autres experts sont du même avis, et expliquent bien comment les évènements du 11 septembre ont créé une image stéréotypée du terroriste, ce qui pourrait expliquer notre surestimation des pouvoirs d'action des terroristes[11].

Même s'il était possible de prévenir les attaques en effectuant des recherches sur les tendances observables, les récents attentats à Paris le 13 novembre 2015 ont démontré qu'il est tout de même possible pour un groupe terroriste orchestré de manière «professionnelle» de mener à bien son plan sans que les services de renseignement détectent la menace, peu importe la législation en place. Les capacités de prévention des lois antiterroristes sont donc remises en question. Face à cette situation, il est important de continuer à chercher des solutions pour réduire la menace, puisqu'on ne peut pas s'attendre à ce qu'une législation comme la loi C-51 mette fin au terrorisme.

Cela dit, certains chercheurs sont d'avis qu'il ne faut pas laisser tomber l'idée de la prévention. Celle-ci reste possible à condition que l'effort soit redirigé vers la source du problème, notamment au niveau de la radicalisation. Plusieurs auteurs sont d'avis qu'il y a un lien étroit entre la radicalisation et le terrorisme, et affirment que la radicalisation est un passage obligé à la *djihadisation*[12]. Il est cependant, important de préciser que la radicalisation ne mène pas nécessairement à des actions violentes de terrorisme[13]. Les études empiriques à ce sujet sont plutôt rares, mais selon une étude menée en Angleterre, seul un très faible pourcentage – environ 1% – des individus musulmans exprimant des opinions radicales ont l'intention de passer à l'acte[14]. Bref selon les recherches, il semblerait que la meilleure manière de prévenir la radicalisation n'est pas à l'échelle pénale, mais bien au niveau communautaire, à l'aide de programmes implémentés dans les communautés les plus à risque[15].

Une autre raison qui pousse à se questionner au sujet du besoin de la loi C-51 est que le Canada avait déjà des mesures en place pour criminaliser l'encouragement à faire des actions terroristes. L'exemple de Saïd Namouh accusé de terrorisme en 2010 le démontre bien: il a écopé d'une peine de 10 ans d'incarcération pour avoir, entre autres, «sciemment participé ou contribué à une activité d'un groupe terroriste, directement ou non, dans le but d'accroître la capacité de tout groupe terroriste de se livrer à une activité terroriste ou de la faciliter»[16]. Cette accusation est directement liée à ses activités sur un forum internet prônant des comportements terroristes. Devant les faits où il était déjà criminel d'encourager le passage à l'acte d'actions terroristes, les nouvelles mesures criminalisant la «propagande» terroriste et les discours «pro terroristes» semblent plutôt redondantes.

Malgré tout, la pertinence de la loi C-51 peut s'expliquer par l'évolution de la dynamique du terrorisme à l'échelle internationale. Au Canada, le phénomène du *home grown terrorism* et des jeunes radicalisés allant combattre à l'étranger, représente un nouveau défi pour les organismes de sécurité[17]. Quant à la situation internationale, l'indice 2015 du terrorisme mondial, mis sur pied par l'*Institute for Economics & Peace*, démontre que depuis les 15 dernières années, il y a une hausse considérable du terrorisme (9 fois plus en 2014 qu'en 2000). Cependant, ce rapport démontre que les pays occidentaux représentent moins de 3% des morts liés au terrorisme[18]. Alors oui, la dynamique du terrorisme évolue, et il est normal que notre législation s'adapte à la nouvelle réalité. Néanmoins, il ne faut pas réagir de manière excessive puisque la menace au Canada reste plutôt faible.

CONLUSION

Bref, il est important que la loi soit revue par le gouvernement pour répondre aux failles qui ont été identifiées. Un meilleur mécanisme de reddition des comptes pour encadrer les nouveaux pouvoirs du SCRS est un premier élément qui doit être abordé. Ensuite, il faudrait s'attarder sur le nouveau rôle d'action du SCRS et les mandats spéciaux pour permettre au SCRS d'aller au-delà de la Charte puisque cela ouvrent la porte à de potentiels abus. Finalement, plusieurs mesures de la loi pourraient être précisées, pour assurer que les droits fondamentaux garantis par la Charte canadienne soient respectés, et limiter les cas de faux positifs.

On ne peut pas s'attendre à ce que la loi C-51 permette au Canada de mieux prévenir d'éventuels attentats terroristes. Il serait donc important de prendre des mesures à l'extérieur du cadre de la justice pénale afin de limiter la radicalisation. De plus, certains éléments de la loi C-51 semblent redondants et manquent

de pertinence si l'on prend en compte la législation antiterroriste qui était déjà en place. Mais puisque la dynamique du terrorisme évolue et que la menace du terrorisme dans le monde prend de plus en plus d'ampleur, il est important que notre législation antiterroriste s'adapte à la nouvelle réalité. Alors, bien que la loi antiterroriste de 2015 contienne plusieurs failles et que certaines de ses mesures ne semblent pas particulièrement nécessaires, il est tout à fait possible d'améliorer cette législation, ce qui du même coup représente une opportunité pour réviser l'approche canadienne au terrorisme.••

ABSTRACT

LÉGISLATION À RÉVISER : PROBLÉMATIQUES ET AMBIGUÏTÉS DE LA LOI C-51

By Éric Cadieux, Étudiant au Baccalauréat en Criminologie, Université d'Ottawa

Within a framework of research and knowledge development mainly in the criminological sphere, University of Ottawa criminology student Éric Cadieux explores three aspects of the 2015 antiterrorism legislative framework, also known as C-51, that he feels should be given priority by the Canadian government: lack of adequate accountability, lack of a legislative framework for new powers granted to law enforcement, and special mandates allowing CSIS to infringe upon constitutionally protected rights and freedoms. In addition, this article examines certain elements of Bill C-51 that call its own existence into question

PLEASE SEND ANY REMARKS, OR A COMMENTARY, REGARDING THIS ARTICLE

to *Justice Report* Editor, Nancy Wright:

ccjapubsacjp@gmail.com

and keep your eye out for the Notices/Feedback section in future issues!

VEUILLEZ ADRESSER TOUT COMMENTAIRE RELATIF À CET ARTICLE

à l'éditrice de l'*Actualité-Justice*, Nancy Wright :

ccjapubsacjp@gmail.com

Demeurez à l'affût de la section Avis/commentaires dans les numéros à venir.

BIBLIOGRAPHIE

[1] BEAUCHESNE, Line. « Les nouveaux enjeux suite à la redéfinition des cibles des SRS et à l'attentat de septembre 2001 aux États-Unis » *Notes de cours CRM 3705-2015 – Troisième partie*, Département de criminologie, Université d'Ottawa. 2014, p.7

[2] *Ibid.* p.4

[3] REMPEL, Roy. « Canada's Parliamentary Oversight of Security and Intelligence », *International Journal of Intelligence and Counter Intelligence*, 2004, Vol. 17, no 3, p.634-654 [P.638] <http://www.tandfonline.com.proxy.bib.uottawa.ca/doi/abs/10.1080/08850600490496443>

[4] C-51, *Loi antiterroriste de 2015*, 2esess, 41elég, 2015, art 42. <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6842344>

[5] ROACH, Kent et Craig FORCESE. *Backgrounder #2: The Canadian Security Intelligence Service's Proposed Power to 'Reduce' Security Threats Through Conduct that May Violate the Law and Charter.* 2015. <http://ssrn.com/abstract=2564272> P.1

[6] C-51, *Loi antiterroriste de 2015*, 2esess, 41elég, 2015, art 42. <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6842344>

[7] *Ibid.* art17.

[8] GOUVERNEMENT DU CANADA. « *Loi antiterroriste de 2015* » Canada. Ca <http://www.canada.ca/fr/campagne/antiterroriste/> consulté le 2015-11-30

[9] BRODEUR, Jean-Paul et Stéphane LEMAN-LANGLOIS (dir.). *Terrorisme et antiterrorisme au Canada*, Montréal, Presse de l'Université de Montréal, 2009, p.10

[10] *Ibid.* p.10

[11] HAMM, Mark. *Terrorism as Crime: From Oklahoma City to Al-Qaeda and Beyond*, New York University Press, 2007, 271 p.

[12] DE PIERREBOURG Fabrice. *Montréalistant : Enquête sur la mouvance islamiste*, Les éditions internationales Alain Stanké, Longueuil, 2007, p.21

[13] PARENT, Richard B. et James O., ELLIS. « Countering Radicalization of Diaspora Communities in Canada » *Metropolis British Columbia*, Working Paper Series, no. 11-12, 2011, 99 p.

[14] FORCESE, Craig et Kent ROACH. « Terrorist Babble and the Limits of the Law: Assessing a Prospective Canadian Terrorism Glorification Offense » *TSAS Woking Paper Series*, no 15-02, 2015, 47p. <http://library.tsas.ca/entries/tsas-wp15-02terrorist-babble-and-the-limits-of-the-law-assessing-a-prospective-canadian-terrorism-glorifi-cation-offense/>

[15] PARENT, Richard B. et James O., ELLIS. « Countering Radicalization of Diaspora Communities in Canada » *Metropolis British Columbia*, no. 11-12, 2011, 99 p.

[16] CANLII. R. c. *Namouh*, 2010 OCCQ 943, <http://canlii.ca/t/2850s> consulté le 2015-11-18

[17] DE PIERREBOURG Fabrice. *Montréalistant : Enquête sur la mouvance islamiste*, Les éditions internationales Alain Stanké. Longueuil, 2007, 359 p.

[18] INSTITUTE FOR ECONOMICS & PEACE. *Global Terrorism Index 2015*. 2015, 107 p. <http://www.visionofhumanity.org/sites/default/files/Global%20Terrorism%20Index%202015_0.pdf>

THE CHANGING FACE OF CANADA'S PRISONS: CAN WE TALK ABOUT BLACK WOMEN?

BY ANDREA ANDERSON, PhD Candidate, Osgoode Hall Law School, York University

ABSTRACT

Anderson provides a lively discussion of the over-representation of Blacks in Canadian prisons and the lack of research into this social phenomenon. She begins with a short discussion of the normalizing representations ofthe experiences of women in federal minimum security prisons in New York as portrayed in the popular Netflix show, "Orange is the New Black". The show's storytelling is based on 'real-life' experiences from a memoir written by a Caucasian woman who served a year. Noting that the public perceives this show as an 'authentic' account of life in prison, Anderson says the show is problematic as the Caucasian female protagonist mediates the stories of marginalized inmates of colour, but fails to address the disparity of women of colour in prisons. Anderson demonstrates the inaccuracy of the show's representation of prison life vis-à-vis Black inmates, noting that the disproportionate incarceration rate of Black offenders is well-documented in the US. The changing racial composition of female inmates in Canada today, notes Anderson, is complicated by a poorly documented profile of the Black female inmate and the resulting lack of understanding and of effective solutions to the problem of over-representation of this group within Canadian carceral institutions.

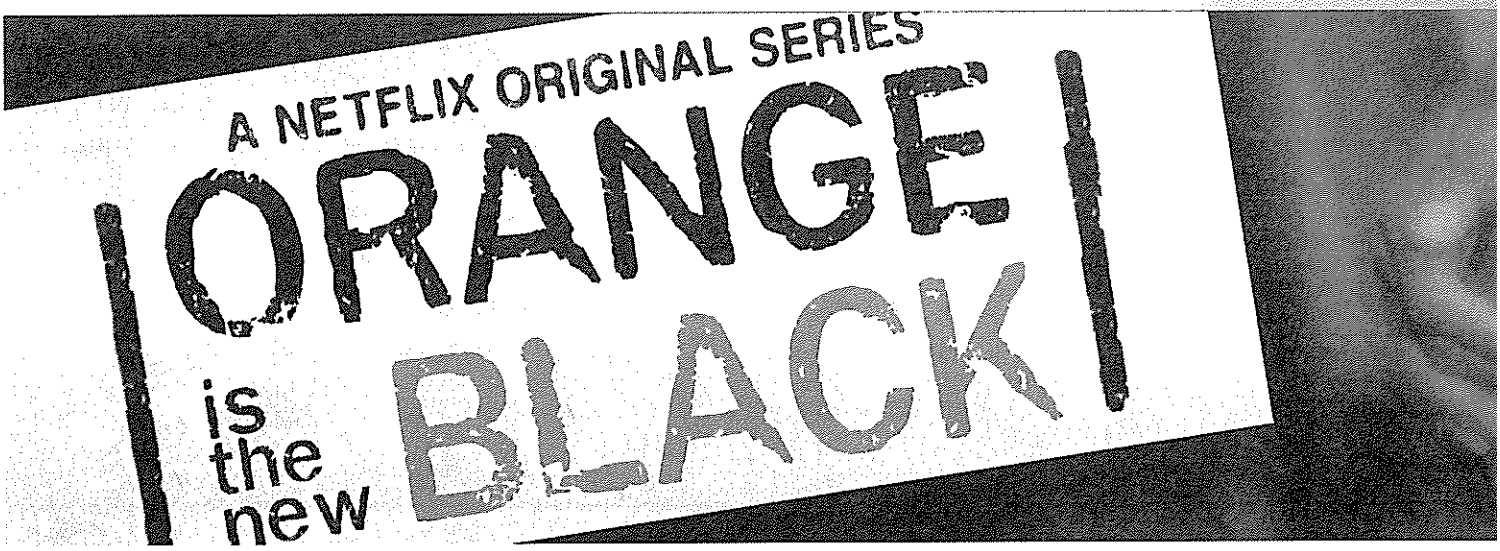
Introduction

There has been an explosion of the female prison population. Piper, Red, Crazy Eyes and the other colourful characters on Jenji Kohan's popular Netflix show "Orange is the New Black" (OITNB) have become the dominant representation of women's prisons for millions of television viewers. The premise of the series is simple: it recounts the experiences of women in a federal minimum security correctional facility in upstate New York. Roughly a dozen main characters provide dramatic and humorous portrays of the life in American prison. The show has been praised in particular for highlighting the stories of a diverse array of women, including working class, trans* identified, Latina, and immigrant women. The storytelling is from the viewpoint of the main character Piper Chapman, whose story is based on the real-life experience of American Piper Kerman who wrote a memoir after serving a year in a women's prison. Chapman/Kerman is a white queer middle-class woman and, while OITNB allows this white protagonist to mediate the stories of the other marginalized female prisoners, the series is incomplete in its narrative of the affects of interlocking oppression facing racialized female offenders.

Piper's viewpoint is limited as she cannot capture the experiences of imprisonment for woman of colour. Nor does OITNB directly address the changing racial composition of female prisons. This changing racial alignment of the prison population is not a new phenomenon. The disproportionate incarceration rate of Black offenders, for example, has been the subject of numerous studies, papers and reports, particularly in the United States. However, when examining statistical data from Canada, the profile of the Black female inmate is not well documented and, in turn, effective solutions to their over-representations in the correction system are not well understood.[1] In order to better address the implications of the intersections of race, gender and criminalization, the article notes that the framework of black feminist criminology is useful to understand the experiences of black women prisoners. In this article, 'black' is used as a common term for women of African descent, while 'women of colour' refers to women of African, Asian, and Latin communities.

The Landscape: Rates of Incarcerated Blacks Continue to Increase in Canada

Black Canadians are disproportionately represented in Canadian correctional facilities. According to African Legal Clinic's report, the rate of over-incarceration of African Canadians has been expanding at a time when Canada is experiencing historically low rates of crime.[2] The 2013 report by Howard Sapers, Canada's Correctional Investigator, entitled "The Black Inmate Experience in Federal Penitentiaries" highlights that over the past 10 years Aboriginal incarcerated population increased by 46.4 percent, and the number of visible minority groups (e.g. Black, Asian, Hispanic) increased by 75 percent.[3] During this same period, the population of white inmates declined by 3 percent. Further, the report found 9.3 per cent of federal inmates today are Black, yet Black Canadians account for less than three per cent of the total Canadian population.[4] Most recently, in the May 2015 a report entitled, "Administrative Segregation in Federal Corrections: 10 year Trend" by the Government of Canada's Office of the Correctional Investigator (OCI) outlined how the number of black intimates sent



to solitary confinement in federal prisoners had doubled in the last decade.[5] The report noted that since May 31, 2005, the population of African Canadians in federal prisons grew by 77.5 percent, while the white population decreased by 6.8 per cent. During this time, the numbers of black inmates sent to solitary went up by 100.4 percent, where as it decreased for the white population by 6.1 percent.[6] Further, between March 2003 and March 2013, Aboriginal admissions to solitary increased 31.1 per cent and female admissions increased 35 percent. Whereas the segregation admissions for white inmates declined by 12.3 percent. In 2013, the OCI Annual Report revealed that African Canadians are one of the fastest growing subpopulations in federal corrections.[7]

The Incarcerated Black Canadian Women

While women make up a small portion of those incarcerated, their rates of imprisonment have increased faster than for men, causing feminists and criminologists to call for drastic measures to counter this "crisis in women's prisons."[8] Within this scope, women of colour are the fastest growing segment of the North American prison population.[9] In Canada, Howard Sapers' report "The Black Inmate Experience in Federal Penitentiaries" notes, the rates of incarcerated Black women continue to increase. Black women inmates account for 9.12 per cent of the federally incarcerated women population while, as mentioned, African Canadians represent less than 3 percent of the general Canadian population.[10] Black Canadian women who are disproportionately represented in federal prison system "are more likely to have mental health issues, histories of abuse, and are more likely to self-harm or attempt suicide."[11]

Black Women in the US are the Largest Growing Prison Population

The increasing presence of women in the US correctional systems has gained the attention of scholars interested in understanding how women enter the criminal justice system. The rising rates of incarceration amongst Black women, particularly in the United States, has garnered greater attention as countless studies and reports show that Black women in the United States are the largest growing prison population. A number of American scholars have centered their analysis on the mass incarceration of Black women. For example, Julie Sudbury, Kimberlé Crenshaw, Henriques & Manatu-Rupert and Christian & Thomas have based their research on understanding how the over-presentation of incarcerated African African-American women is a product of their intersectional identities and their unique discrimination they face as a result of being black, economically marginalized, and female.[12] However, thus far, Canadian research has neglected the intersections of gender, race, and class and how it situates black women in a distinctive position that often relates closely to their incarceration.

Most Canadian scholars in the field focus almost exclusively on women as a general category using theories of victimization, and rarely explore the increased rates of incarceration amongst racialized women.[13] Further, scholars within the field of critical race and social justice cite racism as the explanations for the incarceration of Black people in general. In Canada, those studies have virtually ignored the experiences of imprisoned Black women. Research that empirically examines the influences of multiple intersections of race, gender and class on mass incarceration is absent from the criminal justice literature.[14] While it is true that a rich stream of literature exits that examines factors contributing to women's incarceration, and Aboriginal and racialized intimates in general, few empirically address the impact of intersectionality on black women's criminal convictions.

Sapers' report acknowledged that while prejudice and bias, with respect to Aboriginal peoples, have been well documented in studies and inquiries of the Canadian criminal justice system, "little Canadian research has systematically explored the treatment of visible minorities within the criminal justice system and even less so on their experiences in correctional facilities, primarily because of the lack of or limited access to data."[15] However, Sapers' report did not directly address racism as a cause of the over-representation of Black Canadians in the prison system. Rather, the report notes that "it is reasonable to conclude that discrimination and stereotypes reported by Black inmates may be a contributing factor in their over-representation. Stereotypes in particular may

lead to a belief that some groups are more dangerous or violent than others and this is often reinforced through negative media images."[16] Given the increasing numbers of black women in prison, more research rooted in an intersectional quantitative approach will prove most beneficial to the community in addressing this issue.

Intersection of Race, Gender and Imprisonment

Incarceration has become one of the social institutions shaping Aboriginal and racialized people's experiences. This era of increased incarceration has particular impact on communities of colour. Although research on women of colour in the criminal justice system is limited, existing data suggest it is a combination of race and gender that are at the root of understanding the impact of Black women's interaction with the justice system. As Sapers' report notes, Black Canadian inmates often lose contact with friends and family while incarcerated. Upon release, their problems are often amplified not only because of their race and gender, but also their criminal record. In most cases, this affects their ability to obtain meaningful/sustainable employment, but it also impacts long-term familial relationships. The impact of these heightened incarceration rates is significant for Black women as they face unique challenges as both incarcerated women and women connected to imprisoned men and women.[17] Women have traditionally been sentenced to prison for different reasons than men; historically for crimes involving sexuality and/or crimes of property or poverty.[18] Once in prison, their conditions of incarceration are different from men because of gender-specific needs that include privacy, health and reproductive care.[19] American researchers have found the recurring portrait of the female prisoner is "a young, single mother with few marketable jobs skills, a high school drop-out who lives below the poverty level."[20] Further, studies in the United States and Canada have shown that the Black female prisoner is "a young, uneducated single mother. She is likely unemployed, with few marketable skills, and is more likely to be on welfare."[21]

Incarcerated Black women have experienced higher rates of sexual abuse compared to women who are not incarcerated.[22] For drug related offences, Black adult females are noted as having the largest incarceration rate.[23] For example, in 15 states where African-American women are incarcerated their rates range from 10 to 35 times greater than white women or African American men.[24] In Canada, Howard Sapers' report notes that 53 per cent of Black women are most likely to be to be incarcerated for drug offences.[25] In addition, Black women who are disproportionately over-represented in federal correctional institutions in Canada "are more likely to have mental health issues, histories of abuse, and are more likely to self-harm or attempt suicide."[26]

An Argument for Black Feminist Criminology

Why are so many Black women in prison? Why are Black women represented disproportionately within the population of incarcerated females? In attempting to understand the rise in the black female prison population, Black Feminist criminology can provide a useful guide to fill the gap in the literature, and address the ways in which race and gender are significant predicators for incarceration. Emerging out of understanding crime, delinquency and punishment within the black community, Black Feminist Criminology finds it roots in Feminist Criminology, Black Feminist Thought and Critical Race Feminist Theory. In brief, Black Feminist Criminology not only addresses black women as victims of incarceration, but extends to address the unique challenges black women face as collateral to incarceration. This framework extends beyond traditional, feminist criminology to view Black women and other women of colour from their multiple positions in society. This method of inquiry stresses that Black women are frequently oppressed within both the Black community and society at large, and that research on black women should be conducted based on this perspective.[27] Black women occupy a unique position in the criminal justice system as they are disadvantaged by their race and gender. The framework attempts to illustrate the social and economic marginalization that impact and intersect with Black women's experiences.

As has long been the case for female Aboriginal offenders, the discussion of the

rise in the Black female inmate population is timely as the stories of women in conflict with the law have captivated the mainstream public. It also illustrates how the reliance of penal system has impacted communities. OITNB has changed the way people think of women's imprisonment. The show serves as a platform for continued discussions about this incarcerated population. Today, we imprison more women than before, many of whom are low-level, non-violent offenders guilty of crimes of poverty and addiction. Prisons are sites of oppression and, in turn, have silenced the racialized and gendered bodies of the most marginalized.[28] The growth in the number of black women in Canadian prisons requires more research rooted in an intersectional approach. We cannot seek to understand the exposition of women's incarceration through the separate lens of gender and patriarchy alone. In the end, in failing to develop a framework that takes into account intersectional identities, the discourse on incarcerated Black women will continue to be conceptually limited to realms of shows like OITNB. ••

FOOTNOTES

1 Anthony Morgan & Darcel Bullen, "Civil and Political Wrongs: The Growing Gap between International Civil and Political Rights and African Canadian Life" A Report on the Canadian Government's compliance with the International Covenant on Civil and Political Rights (Toronto: African Canadian Legal Clinic, June 2015) at 12 [unpublished] [ACLC Report].

2 ACLC Report, *supra* note 1. See also, Statistic Canada, Canadian Megatrends, Canada's Crime Rate: Two Decades of Decline (Ottawa: Statistics Canada) online: Statistics Canada <http://www.statcan.gc.ca/pub/11-630-x/11-630-x2015001-eng.htm>. Canada's overall crime rate is at the lowest level since 1969.

3 Government of Canada, The Correctional Investigator Canada, A Case Study of *Diversity in Corrections*: The Black Inmate Experience in Federal Penitentiaries, Final Report, online: Office of the Correctional Investigator < http://publications.gc.ca/collections/collection_2014/bec-oci/PS104-8-2013-eng.pdf > at para 3.

4 *Supra* note 3 at para 3.

5 Government of Canada, *The Correctional Investigator Canada. Administrative Segregation in Federal Corrections 10 Year Trends* (Ottawa: Correctional Service Canada, May 28, 2015) online: Office of the Correctional Investigator http://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20150528-eng.aspx at para 1.

6 *Ibid.*

7 Government of Canada, The Correctional Investigator of Canada, *Annual Report of the Office of Correctional Investigator*, 2012-2013 Cat. No. PS100-2013E-PDF (Ottawa: Correctional Service Canada, June 28, 2013); Correctional Service Canada, *Corrections and Conditional Release Statistical Overview* (Ottawa: Public Works and Government Services Canada 2004) at 47-48. Sentences of two or more years in Canada are served in federal prisons.

8 Julia Sudbury, "Celling Black Bodies: Black Women in the Global Prison Industrial Complex" (2002) 70 Feminist Review 80. See also, Angela Y Davis & Cassandra Shaylor, "Race, Gender, and the Prison Industrial Complex: California and Beyond" (2001) 2:1 Meridians 2.

9 Paula Johnson, *Inner Lives: Voices of African American Women in Prison* (New York: New York University Press, 2003) at 5.

10 *Supra* note 3 at para 18.

11 Canadian Human Rights Commission, Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women (Ottawa: Canadian Human Rights Commission, 2013) at 5.1.2. See also ACLC Report, *supra* note 1.

12 See Julia Sudbury, "Celling Black Bodies: Black Women in the Global Prison Industrial Complex" (2002) 70 Feminist Review 80; Kimberlé W Crenshaw, "From Private Violence to Mass Incarceration of the Lives of African American Women" (2011) 39 Rev Black Polit Econ 203; Zelma Henriques & Norma Manatu-Rupert, "Living on the Outside: African American Women Before, During, and After Imprisonment" (2001) 81:1 The Prison Journal 6; Johnna Christian & Shenique S Thomas, "Examining the Intersections of Race, Gender, and Mass Imprisonment" (2009) 7:1 Journal of Ethnicity in Criminal Justice 69.

13 See for example, Kelly Hannah-Moffat & Margaret Shaw, eds, *An ideal prison? : Critical essays on women's imprisonment in Canada* (Halifax, N.S.: Fernword, 2000); Ellen Adelberg & Claudia Currie, eds, *In conflict with the law: Women and the Canadian Justice System* (Vancouver: Press Gang Publishers, 1993).

14 See Kelly Hannah-Moffat & Margaret Shaw, eds, An ideal prison? : Critical essays on women's imprisonment *in Canada* (Halifax, N.S.: Fernword, 2000).

15 *Supra* note 3 at para 2.

16 *Supra* note 3 at para 60.

17 Johnna Christian & Shenique S Thomas, "Examining the Intersections of Race, Gender, and Mass Imprisonment" (2009) 7:1 Journal of Ethnicity in Criminal Justice 69 at 69.

18 Nancy Kurshan, "Women and Imprisonment in the U.S.: History and Current Reality" online: The Freedom Archives <http://www.freedomarchives.org/Documents/Finder/DOC3_scans/3.kurshan.women.imprisonment.pdf> at 1.

19 Zelma Henriques & Norma Manatu-Rupert, "Living on the Outside: African American Women Before, During, and After Imprisonment" (2001) 81:1 The Prison Journal 6 at 6.

20 Kurshan, *supra* note 17 at 10. See also, Shoshana Pollack, "Focus-Group Methodology in Research with Incarcerated Women: Race, Power, and Collective Experience" (2003) 18(4) AFFILIA 461, 462.

21 Henriques & Manatu-Rupert, *supra* note 18 at 7.

22 *Ibid.*

23 WJ Sabol, et al, *Prison and Jails Inmates* (Washington, DC: Department of Justice, 2006).

24 Christina Faye Meares, "Disappearing Acts: The Mass Incarceration of African American Women" (MA Thesis, Georgia State University, 2011) 1 at 2 [unpublished]. See Natalie Sokoloff, "Women Prisoners at the Dawn of 21st Century" (2005) 16 Women & Criminal Justice at 127 -137.

25 *Supra* note 3 at para 19.

26 Canadian Human Rights Commission, Protecting their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women (Ottawa: Canadian Human Rights Commission, 2003) at 5.1.2. See Morgan & Bullen, *supra* note 13 at 17

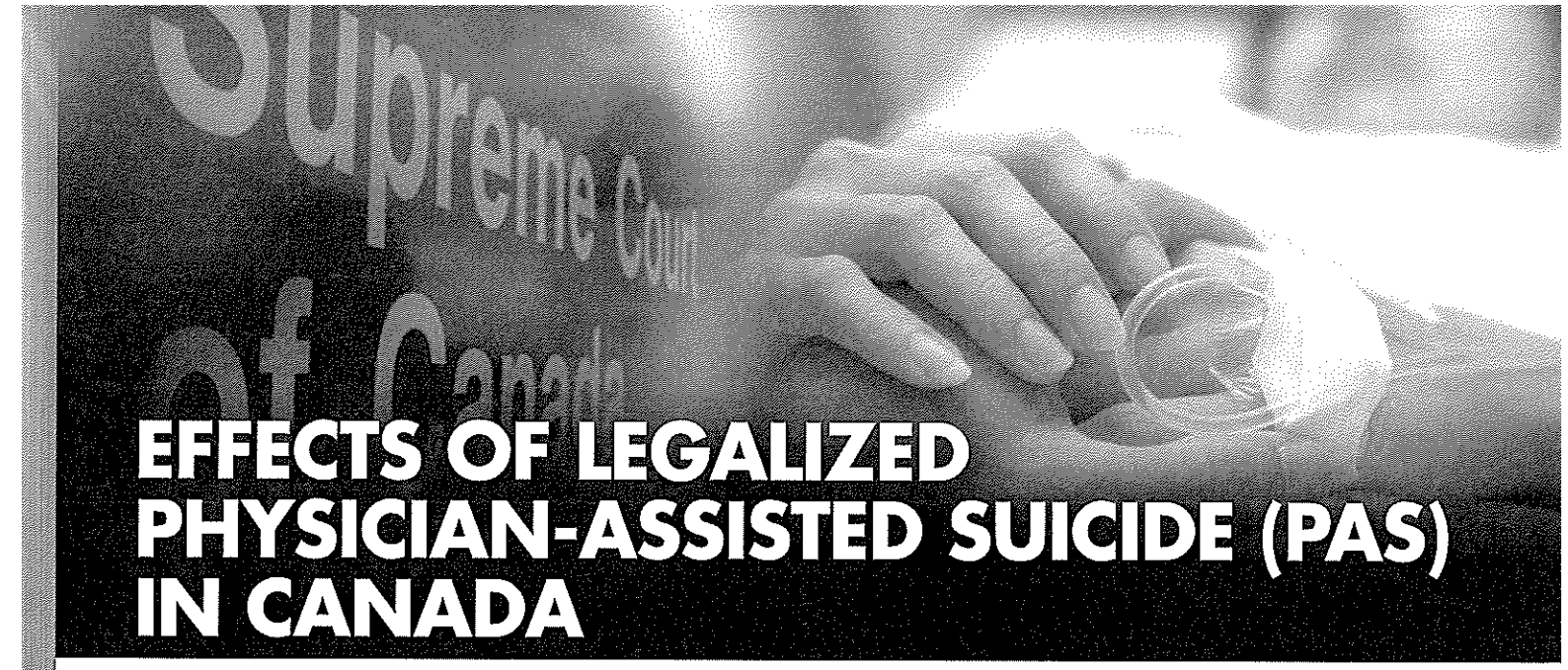
27 Meares, *supra* note 23 at 31; see Hillary Potter, "An Argument for Black Feminist Criminology: Understanding African American Women's Experiences with Intimate Partner Abuse Using an Integrated Approach" (2006) 1:2 Feminist Criminology 106 at 111.

28 Jodie Michele Lawston, "Women, the Criminal Justice System and Incarceration: Processes of Power, Silence, and Resistance" (2008) 20:2 NWSA Journal 1 at 10.

RÉSUMÉ

THE CHANGING FACE OF CANADA'S PRISONS: CAN WE TALK ABOUT BLACK WOMEN?
Par Andrea S. Anderson, doctorante au Osgoode Hall Law School de l'Université York

Anderson suscite une discussion animée sur la surreprésentation des Noires dans les prisons canadiennes et le manque de recherches sur ce phénomène social. Elle commence par un bref exposé sur les représentations normalisées des expériences des femmes incarcérées dans les prisons à sécurité minimale de New York qui sont décrites dans l'émission populaire *Orange Is the New Black*, diffusée sur Netflix. L'émission est basée sur des expériences vécues tirées d'un livre écrit par une femme de race blanche qui a purgé une peine d'un an. Anderson note que le public perçoit cette émission comme un récit authentique de la vie en prison et dit que l'émission pose problème parce que le personnage féminin de race blanche intervient dans les histoires des détenues de couleur marginalisées, mais n'aborde jamais les inégalités touchant les femmes de couleur en prison. Anderson démontre que l'émission présente une vision déformée de la vie en prison des détenues de race noire. Elle fait remarquer que le taux d'incarcération disproportionné de détenues de race noire est bien documenté aux États-Unis. Anderson note que le changement de la composition raciale des femmes incarcérées actuellement au Canada est compliqué par le fait que le profil de la détenue de race noire est mal documenté et par le manque de compréhension et de solutions efficaces au problème de surreprésentation de ce groupe dans les établissements carcéraux canadiens qui en résulte.



EFFECTS OF LEGALIZED PHYSICIAN-ASSISTED SUICIDE (PAS) IN CANADA

BY BRIAN CARLISLE, A.A., B.A.

ABSTRACT

Brian Carlisle explores the complexities of euthanasia in Canada within a historical framework of mercy killing/suicide, Christianity and paternalism, the practice of passive euthanasia in this country, and the 2015 Supreme Court ruling striking down the provision prohibiting assisted suicide in the *Canadian Criminal Code*. Noting that various forms of euthanasia are being practiced in other countries, Carlisle says upcoming changes to the CCC will focus on the Supreme Court's ruling that individuals should be able to waive their right to life rather than be condemned to a life of intolerable suffering. In a thought-provoking conclusion, Carlisle questions Canada's continued restrictions on such alternative therapeutic medicines as medical cannabis in the light of the coming changes regarding assisted suicide.

Until very recently Canadian law prohibited suicide, assisted suicide, euthanasia or physician – assisted suicide (PAS). Under the Canadian Criminal Code and pursuant to section 241 (CCC, 2012: s. 241). "everyone who **(a)** counsels a person to commit suicide, or **(b)** aids or abets a person to commit suicide, whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years" (CCC, 2012: s. 241).

Canadian physicians and hospitals had nonetheless developed practices of euthanasia over time. (CBC News, 2012). Such as giving a lethal injection, or when a physician does not resuscitate a patient, or discontinue life-support equipment. (CBC News, 2012). Many such interventions are in direct contravention of Canadian criminal law and the majority of charter challenge cases have attempted to legalize active PAS with the legal argument's focus on the debate over a patient's autonomy (CBC News, 2012).

As noted by Wesley J. Smith in 1997, euthanasia and assisted suicide has been legal in many countries, such as the Netherlands since 1985, and in Germany since 2002 (Smith, 1997). In Germany, the term "euthanasia" is generally avoided because of its association with the eugenicist acts of the Nazi's. The law therefore tends to distinguish between assisted suicide (Beihilfe Zum Suizid) and "active assisted suicide" (Aktive Sterbehilfe). Currently, "Doctors are allowed to prescribe lethal doses of medicine to terminally ill patients in five U.S. states". In Germany, "active-assisted suicide" is legal "as long as the legal drug is taken without any aid. In Switzerland, the law is more relaxed, "ensuring mainly against "self-seeking motives"... Euthanasia is legal in Belgium, "but the presence of a physician is required.... Belgium also became the first country to legalize euthanasia for children." (The Guardian, 2015).

However, in most countries suicide is still frowned upon, and assisted suicide is both condemned and illegal in most parts of the world. This reflects society's fear of a "slippery slope" by which assisted suicide may lead to legalized murder (Smith, 1997).

2015 LAW CHANGE

Just this year, a unanimous Supreme Court of Canada ruling in Carter v. Canada, which appealed a 2012 B.C. Supreme Court decision, has established "that the "sanctity of life" also includes the "passage into death," extending Canadian constitutional rights into a new realm"... which will change the way some Canadians are permitted to die" (Globe and Mail, 2015). In a powerful opening paragraph, the Supreme Court stated, "those who are severely and irremediably suffering, whether physically or psychologically, may be condemned to a life of severe and intolerable suffering" by the government's absolute ban on assisted dying. "A person facing this prospect has two options: to take her own life prematurely, often by violent or dangerous means, or to suffer until she dies from natural causes. The choice is cruel." (Globe and Mail, 2015).

The inability of the right to life is seen as creating a duty to live...

The ruling further ordered that individuals cannot 'waive' their right to life, as. This would create a "'duty to live'" (Globe and Mail, 2015).

Many disability advocates object to the ruling, "because it is not restricted to the terminally ill, but to a broader group who have a "grievous and irremediable medical condition," meaning "all persons with a serious disability in Canada can access assisted suicide, a degree of permissiveness that does not exist anywhere else in the world." (Globe and Mail, 2015). Proponents see it as a god send, enabling Canadians to "have a choice to die with dignity in their our own country, surrounded by friends and family." (Globe and Mail, 2015).

Passive euthanasia... a long established form of palliative care in most Canadian hospitals...

In Canada's medical practices "Passive euthanasia" is called "appropriate care." and is universally practiced in most Canadian hospitals (Schafer, 2009). To date no Canadian physician has ever been charged with a criminal offence for withholding or withdrawing life support, whether at the request of a dying patient, in compliance with a living will or at the request of the patient's family when the patient was no longer competent (Schafer, 2009).

Indirect or passive euthanasia is an established form of palliative type care. Today, many Canadian hospitals have palliative-care wards in which the overall treatment goal is to keep the patient comfortable rather than to prolong life (Schafer, 2009). In these wards and in hospices for the dying, there is little hesitation in administering whatever dose of painkiller is required for comfort, even when the foreseeable consequence is accelerated death (Schafer, 2009). It is quite evident that legalizing and regulating active Physician-Assisted Suicide (PAS) would be the logical progression to illegal assisted suicide methods and prevent any possible abuses or dangers to vulnerable patients unable to give proper end of life consent (Smith, 1997).

It seems reasonable that any autonomous and properly informed individual is capable of accepting the nature and consequences of the decision to be made and capable of communicating this decision (Tiedemann, Valiquet, 2008). An incompetent individual is not capable of understanding the nature and consequences of the choice to be made, and/or is not capable of communicating the decision. Several Criminal Code provisions previously encroached upon the issues of euthanasia and cessation of treatment. Section 14 of the Code provided that: No person was entitled to consent to have death inflicted on them, and such consent does not affect the criminal responsibility of any person by whom death may be inflicted on the person by whom consent is given. Section 222 of the Criminal Code included it as Homicide (Marlisa Tiedemann, Dominique Valiquet, 2008).

A look back in time at suicide and mercy killing...

Historically suicide and mercy type killing was accepted as a societal norm, but with the evolution of Christianity this changed to suicide becoming a violation not only of social contract norms but also of covenants with "God" within a half century (Schafer, 2009). St. Thomas Aquinas wrote in the "Summa Theologiae" that, since organisms strive to survive, suicide is an unnatural act (Schafer, 2009). Most organized religions also believe that it adversely affects the community and violates the property rights of God, the true owner of a person's spirit (Schafer, 2009). Christianity preaches the evil of suicide, the destruction of the body temple (KJB, 1 Cor. 6 (1), and regards suicide as equal to an abuse or misuse of God's possession, the human soul, which is temporarily lodged in a corporeal mansion the body (Schafer, 2009). Centuries later, paternalism was propagated by Sir William Blackstone, known as the codifier of British Law.

Paternalism, "the attitude or actions of a person, organization, etc., that protects people and gives them what they need but does not give them any responsibility or freedom of choice," (Merriam-Webster online). "Paternalism, a malignant transformation of kindness, is about objectifying people and treating them as possessions" (Schafer, 2009). Paternalism is still being practiced in certain countries and that suicide is perceived as self-murder and a grave felony, for which the state has a right to prevent and to punish (Schafer, 2009). In Israel, for instance, and most sacred law practices countries, a soldier is considered to be "military property" and an attempted suicide is severely punished as "the corruption of army chattel" (Schafer, 2009).

"Even fully-informed and consenting adults are not granted full, unmitigated autonomy, freedom, and privacy" (Schafer, 2009). Clearly, without Canada's new PAS legislation, many suffering Canadian patients would continue to suffer or to be charged with further "victimless crimes" such as an illegal assisted suicide" (Schafer, 2009). But why was it necessary for Canadian parliament to create such an unrestrictive law for Canadians to end their suffering by Physician-Assisted Suicide (PAS), but yet not legislate feasible programs and or policies that would end or make bearable suffering by access to alternative therapeutics medicines such as medical Cannabis. "The Marihuana Medical Access Regulations (MMAR) were repealed on March 31, 2014" allowing access only for a small amount of patients already registered for legal access and use vis-a-vis their personal health conditions (MMPR, 2013).••

REFERENCES:

Adler, F., Mueller, G., Laufer, W., Grekul, J. (2009). Criminology: Canadian Ed. Toronto, On: McGraw-Hill Ryerson Ltd.

The Criminal Code of Canada, (2012). Section 241. Retrieved from http://laws-lois.justice.gc.ca/eng/acts/C-46/page-113.html?term=suicide#s-241.

The Fight for the Right to Die, (2012, June, 6). Retrieved from http://www.cbc.ca/news/canada/story/2012/06/15/f-assisted-suicide.html

King James Bible, 1 Corinthians 6 (1).

Marihuana Medical Access Regulations (2001) repealed March 2013 replaced by, Marihuana Medical Purposes Regulations, retrieved from; http://hc-sc.gc.ca/dhp-mps/marihuana/index-eng.php?

Globe and Mail (2015, Feb., 7). Supreme Court Rules Canadians have Right to Doctor-Assisted Suicide.

Retrieved from http://www.theglobeandmail.com/news/national/supreme-court-rules-on-doctor-assisted-suicide/article22828437/

Schafer, A. (2009)." The Great Canadian Euthanasia Debate. Retrieved from http://umanitoba.ca/faculties/arts/departments/philosophy/ /media/Great_Canadian_Euthanasia_.pdf

Smith, W. J. (1997)."Forced Exit: the Slippery Slope from Assisted Suicide to Legalized Murder". Toronto, On: Random House of Canada Ltd.

Sommerville, M. (2001). Death Talk: The Case against Euthanasia and Physician - Assisted Suicide. Toronto, On: McGill–Queen's University Press.

Tiedemann, M., Valiquet, D. (2008) Euthanasia and Assisted Suicide in Canada. Retrieved from http://www.parl.gc.ca/Content/LOP/researchpublications/919-e.htm

PLEASE SEND ANY REMARKS, OR A COMMENTARY, REGARDING THIS ARTICLE
to *Justice Report* Editor, Nancy Wright:
ccjapubsacjp@gmail.com
and keep your eye out for the Notices/Feedback section in future issues!

VEUILLEZ ADRESSER TOUT COMMENTAIRE RELATIF À CET ARTICLE
à l'éditrice de l'*Actualité-Justice*, Nancy Wright :
ccjapubsacjp@gmail.com
Demeurez à l'affût de la section Avis/commentaires dans les numéros à venir.

RÉSUMÉ

LEGALIZED PHYSICIAN-ASSISTED SUICIDE (PAS) IN CANADA
Par Brian Carlisle, Associé en arts, B.A.

Brian Carlisle examine les complexités de l'euthanasie au Canada dans le contexte historique du meurtre par compassion/suicide, du christianisme et du paternalisme, de la pratique de l'euthanasie passive au pays, et de la décision de la Cour suprême rendue en 2015 qui invalide la disposition du *Code criminel du Canada* interdisant le suicide assisté. Carlisle note que l'euthanasie est pratiquée, sous différentes formes, dans plusieurs pays et dit que les changements qui seront apportés au Code criminel seront axés sur la décision de la Cour suprême selon laquelle toute personne devrait pouvoir mettre fin à ses jours plutôt que d'être condamnée à une vie de souffrances intolérables. Dans une conclusion qui suscite la réflexion, Carlisle remet en question le maintien des restrictions imposées par le Canada sur les remèdes de médecine parallèle comme le cannabis thérapeutique, compte tenu des changements à venir sur le suicide assisté.

JUSTICE ACTUALITÉS REPORT

CALL FOR ARTICLES
APPEL DES ARTICLES
Submissions vary from 750 to 2000 words
Les soumissions devraient comporter de 750 à 2000 mots

DEADLINES AND THEMES // DATES DE TOMBÉE ET THÈMES
Articles may be submitted PRIOR to these dates. Les articles peuvent être soumis AVANT la date de tombée.

SPRING // PRINTEMPS 2016 **February 15 février 2016**
Various topics // Divers sujets

SUMMER // ÉTÉ 2016 **May 30 mai 2016**
Urban Games // Enjeux urbains

Please send articles or any questions or comments to the Editor, Nancy Wright, at ccjapubsacjp@gmail.com

Veuillez faire parvenir vos articles, questions ou commentaires à ccjapubsacjp@gmail.com

CANADIAN CRIMINAL JUSTICE ASSOCIATION

STUDENT AWARD

LE PRIX ÉTUDIANT

ASSOCIATION CANADIENNE DE JUSTICE PÉNALE

$1000

1 year **FREE MEMBERSHIP** to the Criminal Justice Association and have your **SUMMARY PUBLISHED IN THE *JUSTICE REPORT***.

Une **ADHÉSION GRATUITE** d'un an à l'Association canadienne de justice pénale, en plus de voir votre **SOMMAIRE PUBLIÉ DANS *ACTUALITÉS-JUSTICE***.

ELIGIBILITY

1. Must be a post secondary student completing an undergraduate degree in a social science program with a focus on criminal justice
2. Must be a student in good academic standing and enrolled in a Canadian University/College

HOW TO APPLY

A. Submit a 250-word summary that describes how your community involvement and studies address criminal justice issues in your community

B. Provide a transcript from your current post-secondary institution (photocopy acceptable)

C. Provide your resume and contact information for 2 reference institutions (1 academic and 1 community)

Submit application by letter, fax or email to:
Canadian Criminal Justice Association
320 Parkdale Avenue, Suite 101, Ottawa, ON K1Y 4X9
ccja-acjp@rogers.com Fax: 613-725-3720

DEADLINE: JANUARY 31, 2016

ADMISSIBILITÉ

1. Doit être un étudiant ou une étudiante de niveau postsecondaire, inscrit(e) à un diplôme de 1er cycle en sciences sociales, mettant l'accent sur la justice pénale
2. Doit être un étudiant ou une étudiante en règle, inscrit(e) dans un collège canadien ou une université canadienne

MODALITÉS DE DEMANDE

A. Présenter un sommaire de 250 mots décrivant comment votre implication communautaire et vos études contribuent à améliorer les enjeux de justice pénale dans votre collectivité

B. Présenter un relevé de notes de votre établissement postsecondaire actuel (une photocopie peut convenir)

C. Fournir votre *curriculum vitae* et les coordonnées de deux références (1 universitaire et 1 communautaire)

Soumettre votre demande par courrier, télécopieur ou courriel à :
Association canadienne de justice pénale
320, avenue Parkdale, suite 101, Ottawa (Ontario) K1Y 4X9
ccja-acjp@rogers.com Télécopieur : (613) 725-3720

DATE BUTOIR : 31 JANVIER 2016

@CCJA_ACJP

Canadian Criminal Justice Association

COMING EVENTS
PROCHAINS ÉVÉNEMENTS

(Published in the language submitted / Publiés dans la langue dans laquelle ils sont soumis)

SAVE THE DATE!
INSCRIVEZ LA DATE À VOTRE CALENDRIER!

JANUARY 22-27 JANVIER 2016

AMERICAN CORRECTIONAL ASSOCIATION'S 2016 WINTER CONFERENCE
PLACE//ENDROIT * New Orleans, Louisiana USA
INFORMATION * www.aca.org

FEBRUARY 4 FÉVRIER 2016

43RD ANNUAL CONFERENCE OF THE WESTERN SOCIETY OF CRIMINOLOGY (WSC)
PLACE//ENDROIT * Four Seasons Vancouver, Canada
INFORMATION * www.westerncriminology.org/conference-3

MARCH 29 – APRIL 2, 2016

ACJS 53RD ANNUAL MEETING
THEME//THÈME * Advancing Justice on All Fronts
PLACE//ENDROIT * Sheraton Denver Downtown Hotel, Colorado
INFORMATION * http://www.acjs.org/pubs/167_668_2915.cfm

JUNE 27 – JULY 15, 2016

RACIAL DEMOCRACY, CRIME AND JUSTICE NETWORK
Crime & Justice Summer Research Institute: Broadening Participation & Perspectives
PLACE//ENDROIT * Rutgers University, School of Criminal Justice
INFORMATION * http://cjrc.osu.edu/sri. Send all requested application materials electronically to MaddyNovich, RDCJN Program Manager, at rdcjn@newark.rutgers.edu

AUGUST 4-5 AOÛT 2016

ICFC 2016: 18TH INTERNATIONAL CONFERENCE ON FINANCIAL CRIMINOLOGY
PLACE//ENDROIT * Vancouver, Canada
INFORMATION * www.waset.org/conference/2016/08/vancouver/ICFC

SEPTEMBER 21-24 SEPTEMBRE 2016

16TH ANNUAL CONFERENCE OF THE EUROPEAN SOCIETY OF CRIMINOLOGY
PLACE//ENDROIT * Muenster, Germany
INFORMATION * www.esc-eurocrim.org/conferences.shtml

OCTOBER 2-5 OCTOBRE 2016

3RD INTERNATIONAL CONFERENCE ON LAW ENFORCEMENT & PUBLIC HEALTH
LEPH2016 -Call for abstracts opens January 1, 2016 / Early bird registrations close January 31, 2016.
PLACE//ENDROIT * Amsterdam, The Netherlands
INFORMATION * www.leph2016.com

NOTICE • • AVIS

Please send notices about your events to **ccjapubsacjp@gmail.com** so we may add them to the list of Coming Events.

Veuillez envoyer les annonces pour vos événements au **ccjapubsacjp@gmail.com** nous permettant ainsi de les inscrire dans la liste des «Prochains événements».

JUSTICE ACTUALITÉS REPORT

ADVERTISEMENTS | ANNONCES | ANNONCES | PUBLICITÉS

1/4 page	seulement **PDF** only	**$100**
1/2 page	seulement **PDF** only	**$150**
1 page	seulement **PDF** only	**$250**

+ $75 colour | couleur

PLAN TO ATTEND

CANADIAN
YOUTH & JUSTICE

ADVANCING IDEAS, EVIDENCE AND INNOVATION

to shape a Canadian perspective of youth justice

Who should attend:

- Federal, provincial, territorial & municipal partners
- Researchers & academics • Front line justice professionals
- *Call for papers January 2016* • *Special student rates*

Join us in Toronto on October 25-27, 2017.

For more information visit: **www.ccja-acjp.ca** or **www.cjao.ca**
or email: **ccja-acjp@rogers.com**
or follow us: **www.facebook.com/cjaoinfo**

CONGRESS 2017 | SHERATON CENTRE, TORONTO | OCT 25-27

Presented by the Canadian Criminal Justice Association in partnership with the Ministry of Children and Youth Services